

48

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Crl. Appeal No. S- 25 of 2024.

Appellant

: Akhtiar Ahmed Chachar present(on bail),
through Mr. Muhammad Ibrahim Lashari advocate
holds brief on behalf of Mr. Muhammad Afzal
Jagirani, Advocate.

Respondent

: The State, through Mr. Ali Anwar Kandhro,
Additional Prosecutor General, Sindh.

Date of hearing: **21.04.2025.**

Date of Judgment: **21.04.2025.**

JUDGMENT

Muhammad Saleem Jessar, J.- Appellant Akhtiar Ahmed Chachar was tried by the Court of learned 1st Additional Sessions Judge, Kandhkot, vide Sessions Case No.444/2023 re-The State v. Akhtiar Ahmed Chachar, based on Crime No.261/2023 registered with P.S A/Section, Kandhkot. On conclusion of trial, he was convicted vide judgment dated 29.04.2024 for offence u/s 23(i)(a) of Sindh Arms Act, 2013 and sentenced to suffer R.I. for 03(three) years, with fine of Rs.50,000/-, in default whereof to undergo S.I. for six months more; however, benefit of section 382-B, Cr.P.C was extended to him.

2. According to the prosecution's case, on 17.10.2023, at 3.00 p.m. time, at the link road leading towards Muhammadani Village near PPL Wall, a police posse headed by complainant HC Shabir Ahmed Lashari of PS A/Section, Kandhkot, apprehended the appellant, on a tip-off, and recovered an unlicensed gun along with 03 live cartridges of 12-bore from side pocket of his shirt; hence, he was booked in this case.

3. Appellant Akhtiar Ahmed, who from his general appearance is a uneducated person, submits that he has nothing to do with the alleged offence. According to him, nothing was recovered from him and he was apprehended by

the police much prior to the registration of this case and on his failure to pay bribe money demanded by the police, was implicated in this case falsely by foisting the alleged Gun against him, only to show their efficiency before their high-ups. He submits that by occupation he is a poor labourer and has never remained involved in any other criminal case prior to this. The appellant submits that if the sentence served by him in jail is treated as already undergone, then he would not press instant criminal appeal on merits. The appellant further submits that he being poor labourer has suffered a lot for no fault.

4. The learned Addl. P.G., appearing on behalf of the State, candidly concedes to the above request made by the appellant and raises no objection to reduction in sentence of the appellant to the period, which he has already served in jail.

5. I have heard the appellant in person as well as learned Addl. P.G. and have gone through the record made available before me.

6. So far merits of the case, the prosecution witnesses examined at trial have furnished straightforward and confidence inspiring evidence and there is nothing on record to show that they deposed against the appellant maliciously or out of any animus. No evidence of *enmity* between the accused and the police/complainant or any of the PWs of this case has been established. Even the statement of accused recorded u/s 342, Cr.PC is also silent on this point. In absence of any enmity between the appellant and the complainant/police, evidence of prosecution witnesses regardless of their being officials was rightly believed by the Court below. Mere status of one as 'official' would not alone prejudice the competence of such a witness unless and until he is proved to be **interested** having motive to falsely implicate an accused or has previous enmity with the person involved.

7. From perusal of the record it appears that the appellant was apprehended by the police party and an unlicensed weapon (gun) was recovered from him, coupled with 03 live cartridges of 12-bore. The accused was under obligation to *firstly* cause dent in prosecution case and *secondly* to establish *least* justify possibility of false implication or *foisting* of weapon upon him. The recovery witnesses remained consistent on each and every material aspect, such as manner of departure till arrest of accused and recovery of weapon. The witnesses were

cross-examined on behalf of the appellant but no material contradiction appears to have been extracted from them. Furthermore, no enmity, ill-will or grudge has been proved against the prosecution witnesses, for falsely implicating the appellant in this case.

8. As regards the request made by the appellant for reduction of sentence on the ground that he is an extremely poor person, from his general appearance, he appears to be a poor person of farmer class. Moreover, there is no material on record to show that the appellant is involved or convicted in any other criminal case. Besides, the appellant also claims to be the only earning member of his family, therefore, it is appropriate that he may be given an opportunity to prove himself as a law-abiding citizen so also being head of his family provide them basic necessities in a good manner.

9. Considering the above facts and circumstances of the case, I do not find any material illegality or serious infirmity committed by the trial Court while passing the impugned judgment, and thus instant criminal appeal is dismissed. However, in view of discussion made *hereinabove* on plea of reduction of sentence, I find it a fit case for departure from normal practice of determining *quantum* of sentence. Therefore, it would serve both the purposes of deterrence and reformation, if the sentence, awarded to appellant is reduced to one already undergone by him. In the given circumstances, I am inclined to take a lenient view in the matter. Accordingly, the sentence of the appellant is altered and reduced to the period of his detention in jail he has already undergone including the period, he was to undergo in lieu of fine. With the above modification in the sentence of appellant, this criminal appeal is dismissed. The appellant is present on bail, his bail bonds stand cancelled and surety, discharged.


JUDGE

The above order has been complied
On 13.08.2025

Accountant