

Judgment sheet.  
**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD.**

Cr. Appeal No.S-02 of 2003.

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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For regular hearing.

Date of hearing: 24 .08.2017.

Date of judgment: 24.08.2017.

Appellant: Through Mr. Shakir Ali, Advocate

The State Through Mr. Shahid Ahmed Shaikh, D.P.G.

None present for complainant.

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**J U D G M E N T :-**

**ABDUL MAALIK GADDI, J** :- By means of this criminal Appeal, appellant Lung has assailed the legality and propriety of the judgment dated 23.12.2002 passed by the learned Additional Sessions Judge, Tando Adam in Sessions Case No.75 of 1996 (Re:State vs Loung & others), emanating from Crime No.47 of 1996 for offence under sections 324 PPC, registered at P.S. Tando Adam, whereby the learned trial court after full-dressed trial convicted and sentenced the appellant as stated in the findings of the impugned judgment, which reads as under:-

“The upshot of above discussion is that the prosecution has established its case against accused beyond any reasonable shadow of doubt, therefore, I found the present accused Loung guilty of offence

punishable U/S 324/34 PPC. The accused has faced the agony of trial for about seven years in this case, therefore, I take lenient view and convicted and sentence the accused Loung for offence punishable U/S 324/34 PPC to undergo rigorous imprisonment for four years. The Benefit of Section 382-B Cr.P.C is granted to the accused for the period which he has already under gone as U.T.I in this case. The accused Loung is present on bail, his bail bond stands cancelled and surety discharged. The accused Loung is taken into custody and remanded to jail to suffer his sentence.”

2. Brief facts of the case of prosecution are that on 22.3.1996 at about 0200 hours complainant Peeral lodged FIR stating therein that there is landed dispute in between Murad Mangsi and complainant party. On the same date, the complainant alongwith his brother Sijawal and nephew Ghulam Rasool came together at Tando Adam for their work, from where they at evening time boarded on bus for returning back. They un-boarded from bus at Bus stop Muhammad Khaskheli and then they were going towards their village through katcha track. He alongwith his nephew Ghulam Rasool were ahead from Sijawal. At about 5.30 pm they reached at the distance of about one acre from road, they heard hakal from their back and saw that accused Yousif Mangsi, Murad Mangsi having pistol in their hands and accused Loung Mangsi armed with single barrel gun came on motorcycle of red colour and gave them hakal that they will not spare them, saying so, accused Loung fired shot from his gun upon the brother of complainant namely Sijawal, accused Yousif and Murad fired pistol shots upon Sijawal,

who while sustaining injuries fell down. Thereafter, accused persons sneak away from the occurrence, hence, this FIR.

3. It is stated by the learned counsel for the appellant that on merits though the appellant has a good case for his acquittal on the ground that case of the prosecution is false and the evidence of the prosecution witnesses are on record, is contradictory to each other. He further submits that the appellant is facing agony of protracted trial since 1996 without his fault. According to him this appeal has been filed in the year 2003 and appellant is appearing in Court for the last 21 years, therefore, he would be satisfied and shall not press this appeal on merit, if the sentence awarded to the appellant by the learned trial court is reduced to the period which he has remained in jail. Per learned counsel appellant has remained in jail for about 20 months. Thereafter, the appellant was granted bail by this Court under section 426 Cr.P.C vide order dated 16.1.2003 and since then appellant is attending this Court regularly and the appellant is in young age and he has no past criminal history. The appellant is only source for earning of his family.

4. Learned D.P.G after going through the record tenders no objection to above proposal.

5. I have thoroughly examined the record with the able assistance of learned D.P.G and Counsel for the appellant. In view of the record, I am of the opinion that the conviction of the appellant is based on cogent reasons. The appellant is first offender. No past criminal history

against him is placed on record. He is young in age and remained in jail for about 20 months, therefore, in the present scenario of the case, the appellant has been sufficiently punished. Under these circumstances, he needs to be given chance in his life to rehabilitate himself.

6. Consequently, in view of above, the appellant deserves leniency. While taking lenient view, I dismiss this appeal on merits; however, reduce the sentence to one already undergone by the appellant. Appellant is present on bail, his bail bonds stand cancelled and surety discharged.

**JUDGE**