

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

Cr. Appeal No.S-465 of 2010.

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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.

Appellants: Through Jehangir Khan Pathan, 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** :- As per record the appellant No.6 Manthar son of Khamiso Nohri has been expired due to his un-natural death, therefore proceedings against appellant Manthar stands abated. Appellants No.1 to 5 are present on bail.

2. However, through instant appeal, the appellants Arif Hussain, Muneer, Sadiq, Sher Khan and Muhammad Umer have assailed the legality and propriety of the judgment dated 15.12.2010 passed by learned Sessions Judge, Umerkot in Sessions Case No.34 of 2010 (Re:State vs Arif Hussain & others), emanating from Crime No.21 of 2010 for offence under sections 395 PPC, registered at P.S. Pithoro, whereby the learned trial court after full-dressed trial convicted and sentenced the appellants as stated in the findings on point No.04 of the impugned judgment, which reads as under:-

“In view of the above discussion wherein the prosecution case has been fully brought home to

accused persons for offences under section 395 read with section 35 PPC only, accused Arif Hussain and the remaining five accused persons namely Muneer Ahmed, Sadiq, Sher Khan alias Sheeru, Muhammad Umer and Manthar who were acting alongwith accused Arif Hussain with criminal knowledge of the occurrence, being equally responsible for the commission of offence for which they alongwith accused Arif Hussain were charged, and found guilty. I, therefore, order that each accused be sentenced to suffer rigorous imprisonment for 4 (Four) years each and to pay a fine of Rs.25,000/- (Rs. Twenty five thousand) each in default of payment of fine each accused is ordered to suffer additional rigorous imprisonment for one year each. Benefit of section 382-B Cr.P.C is extended to convict Arif Hussain who has remained as under trial prisoner from 25.4.2010 to 17.5.2010. This period which he has remained in jail will be deducted from the period of sentence of 4 years awarded to him. All the six accused are on bail. Their bail bonds stand cancelled and sureties discharged. They are taken into custody and they be sent to jail to serve out the sentences.”

3. Brief facts of the case of prosecution as disclosed in the FIR are that on 05.4.2010 complainant Muhammad Sharif was at his official duty at Larkana and he received telephonic message from his house that on the same date his son Imran was grazing the cows and buffalo at the distance of half kilometer from village near the water pond, where accused Arif Hussain, Muneer Ahmed, Saadiq, Sher Muhammad alias Sheru, Manthar, Muhammad Umer armed with lethal weapons arrived there and on the show of weapons robbed the said cattle so also caused him injury and robbed cash Rs.5000/-lying in the pocket of Imran in respect of tractor ‘kheri’ hence, this FIR.

4. It is stated by the learned counsel for the appellants that on merit though the appellants have a good case for their 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 2010

without his fault. According to him this appeal has been filed in the year 2010 and appellant is appearing in Court for the last 07 years, therefore, he would be satisfied and shall not press this appeal on merit, if the sentences awarded to the appellants by the learned trial court are reduced to the period which they have remained in jail and the fines are remitted. Per learned counsel the appellants have remained in jail for a considerable period. Thereafter, the appellants were granted bail by this Court under section 426 Cr.P.C vide order dated 07.01.2011 and since then appellants are attending this Court regularly and the appellants are in young age and they have no past criminal history. The appellants are only source for earning of their families.

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

6. I have thoroughly examined the record with the able assistance of learned D.P.G and Counsel for the appellants. In view of the record, I am of the opinion that the conviction of the appellants is based on cogent reasons. The appellants are first offenders. No past criminal history against them is placed on record. They are young in age and remained in jail for a considerable period; therefore, in the present scenario of the case, the appellants have been sufficiently punished. Under these circumstances, they need to be given chance in their life to rehabilitate themselves.

7. Consequently, in view of above, I dismiss this appeal on merits, however, reduce the sentence to one already undergone by the appellants and fine is hereby remitted. Appellants are present on bail, their bail bonds stand cancelled and surety discharged.

**JUDGE**