

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

Cr. Appeal No.S-210 of 2003.

DATE	ORDER WITH SIGNATURE OF JUDGE
-------------	--------------------------------------

For regular hearing.

Date of hearing: 22 .09.2017.

Date of judgment: 22. 09.2017.

Appellant: Through Syed Madad Ali Shah, Advocate

The State Through Syed Meeral Shah DPG

None present for complainant.

===

J U D G M E N T :-

ABDUL MAALIK GADDI, J :- By means of this criminal Appeal, appellant Muhammad Khalid has assailed the legality and propriety of the judgment dated 06.10.2003 passed by the Vth learned Additional Sessions Judge, Hyderabad in Sessions Case No.136 of 1996 (Re:State vs Abdul Razzak), emanating from Crime No.70 of 1996 for offence under sections 324, 34 PPC, registered at P.S. Market, whereby the learned trial court after full-dressed trial convicted and sentenced the appellant to suffer RI for ten (10) years and to pay fine of Rrs.10,000/- and in default of payment of fine he is to suffer RI for three months more, the appellant has further been ordered to pay Rs.25,000/-as compensation to the injured Habibullah and in default of payment of compensation, the appellant to suffer RI for six months more. The

appellant has further been convicted under section 337-F(iii) PPC to suffer RI for three years and to pay fine of Rs.5,000/-and in default of payment of fine he is to suffer RI for one month more. The appellant has further been ordered to pay Rs.25,000/-as compensation to the injured / complainant Habibullah and in case of its non-payment he has to suffer RI for three months more. Both the sentences are ordered to run concurrently. The appellant has been allowed benefit of section 382-B Cr.P.C.

2. Narating the silent features of the incident, the complainant PC Habibullah says in FIR lodged by him at police station, Market Hyderabad at 2045 hours, that he was posted at Central Prison, Hyderabad. After finishing his duty returned in a fore-seater, towards market and at A-1 Chowk, he got down and he was paying fare to the driver, when at 7.15 pm Khalid Pathan and Abdul Razak Pathan came on motorcycle and made fires at him. One of the fire hit at his left buttock, where-after those persons made good their escaped towards Noor Mohammad High School, Hyderabad side. The complainant then went to police station Market, took letter for treatment for hospital, wherefrom he got his injuries bandaged and then he returned back to at PS and lodged FIR, alleging therein that both the accused persons were confined in Central Prison, Hyderabad, where due to strictness, they had threatened the complainant of dire-consequences and caused him injuries with pistol of fires with intention to kill him.

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 three years. Thereafter, the appellant was granted bail by this Court under section 426 Cr.P.C vide order dated 08.05.2006 and since then appellant is attending this Court regularly and the appellant is over-aged person 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 aged person and remained in jail for about three years, 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

Ahmed/Pa