

ORDER SHEET
IN THE HIGH COURT OF SINDH,
 CIRCUIT COURT, HYDERABAD.
 Cr.Jail.Appeal No.S-65 of 2011

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

For regular hearing.

21-09-2017

Syed Muhammad Waseem Shah, advocate a/w appellant.

Syed Meeral Shah DPG .

=

ABDUL MAALIK GADDI, J- By means of this criminal Appeal, appellant Raees Ahmed assailed the legality and propriety of the judgment dated 15.01.2011 passed by the learned 1st Additional Sessions Judge, Hyderabad in Sessions Case No.36 of 2002 (Re:Nadeem & others), whereby the learned trial court after full-dressed trial convicted and sentenced the appellant as stated in the findings of the impugned judgment in Point No.2 (Para-28) which reads as under:-

28- In view of my findings on point No.1, the accused Raees and Sharif are convicted and sentenced for the offence punishable U/s 337-F(iii) PPC to undergo RI for three years and to pay compensation of Rs.20,000/-each to the injured PW Naeem and in case of default in payment of compensation amount, the accused shall suffer S.I for two months more. The accused Raees and Sharif are present on bail, their bail bonds stand cancelled, sureties are discharged and they are taken into custody and remanded to Central Prison Hyderabad to serve out the sentences awarded to them. The accused Ziaul Qamar has already expired and proceedings against him are already abated. Accused

Niaz, Abdul Sami and Nadeem are hereby acquitted of the charge U/s 265-H(i) Cr.P.C. They are present on bail, their bail bonds stand cancelled and sureties are discharged. Benefit of Section 382-B Cr.P.C is given to the accused Sharif and Raees and it is ordered that the period of detention of accused Raees in this case with effect from 15.12.2001 to 18.01.2003 and of accused Sharif with effect from 15.12.2001 to 06.08.2005 be adjusted towards sentences awarded to them as above.

2. Related facts of the prosecution case narrated in the FIR are that complainant Fazal Ahmed is doing his own business and having five sons, in which one Naeem Ahmed is on No.3. Today he alongwith his son Naeem Ahmed and Pervaiz were present in the home, in the meantime doorbell of his house rung on, his son Naeem Ahmed came out from the house, then complainant and Pervaiz also went outside the house and they saw one Raees Qureshi standing outside the house, who asked Naeem Ahmed that Zia and others are standing beside the road in the street and they/complainant party should talk with them, therefore, Naeem Ahmed accompanied with Raees Khan went towards the road, they also went near them and in the light of electricity, they identified Raees, Sharif Qureshi, Zia Qamar and two unknown persons were present besides the motorcycle armed with pistols and revolvers. Rasheed asked Naeem Ahmed that he was involved in conducting raid upon them on 06.11.2001 in respect of gambling. Thereafter, Naeem Ahmed replied that he has no concerned and do not know

about the same, on which Raees, Sharif Zia-ul-Qamar & others used abusive language, took out pistols and revolver and made straight firing upon Naeem Ahmed, who fallen down on the ground, they raised hackles to them not to murder him, upon which the accused they making firing went away on their motorcycle towards their houses. Complainant party saw that Naeem Ahmed sustained bullet injuries on their both legs and the blood was oozing, they took injured Naeem in the Car to police station where complainant lodged the present 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 2002 without his fault. According to him this appeal has been filed in the year 2011 and appellant is appearing in Court for the last 06 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 the period of two years and three months. Thereafter, the appellant was granted bail by this Court under section 426 Cr.P.C vide order dated 11.03.2011 and since then appellant is attending this Court regularly and the appellant is very old

aged person having 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 very old aged person, who remained in jail for a considerable time, 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 deserve leniency. While taking lenient view, I dismiss this appeal on merits; however, reduce the sentence to one already undergone by the appellant and fine is hereby remitted. Appellant is present on bail, his bail bonds stand cancelled and surety discharged.

JUDGE