

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD**

Cr. Acctt. Appeal No. D- 84 of 2015

DATED **ORDER WITH SIGNATURE OF JUDGE**

17.08.2017

For hearing of MA 7122/15 as well as main case

Mr. Muhammad Hashim Leghari, advocate for appellant
Mr. Jangu Khan, Special Prosecutor NAB

At the outset, learned counsel for the appellant Muhammad Ali contends that he would not press the instant appeal on merits if the sentence, awarded to the appellant, is reduced to the period as already undergone. He further contends that almost the appellant Muhammad Ali has remained in prison for four years. Benefit of Section 382-B Cr.P.C. was awarded to him by the trial court. This is a case of alleged misappropriation of an amount of Rs.75,00,000/-; out of which appellant Muhammad Ali has already returned Rs.16,00,000/-. He further contends that the appellant is not involved in any other case, as he is first offender. Main accused Manzoor Shahani, who was Operation Manager, was acquitted by the trial court. Although he has strong case on merits but he is not pressing the same, in case the sentence is reduced to already undergone. It is also asserted that appellant is the only male member to earn bread and butter for his family and it would be in the interest of justice if his sentence is reduced to already undergone.

Learned Special Prosecutor NAB reluctantly opposed the submission of learned counsel for appellant, he however, contends that the sentence may be reduced up to 05 years and with regard to fine same may be reduced in case of non-payment from one year to six months.

Since the object of sentence is always important to be considered while awarding conviction which is reformation or deterrence. *Reformation*, if possible, should *normally* be given preference over *deterrence* hence a balance must always be maintained keeping *both* concepts in view. Admittedly main accused was acquitted by the trial court and appellant has served more than half sentence in prison as penal servitude; moreover he is not involved in any other case; he was also removed from his service thereby not only he but also his *family* stood penalized *financially* too and that prosecution did not claim convict/appellant to have remained involved in such like *offences*. Further there is no chance of

repetition of offence as he is not in the same job. Thus, considering all these *facts*, plea of his being sole *bread-earner* as well with hope / expectation that in future he would be law abiding citizen of this country and that he would take his *release* so as to guide his *children* onto right *path*, we find it a fit case of reduction into sentence. Accordingly, the sentence of the appellant is reduced from 07 years to 04 years and with regard to fine the sentence is reduced from one year to two months. The instant appeal is disposed of with above modification in the impugned judgment.

JUDGE

JUDGE

karar_hussain-memon/PS*

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD**

Cr. Acctt. Appeal No. D- 85 of 2015

Cr. Acctt. Appeal No. D- 86 of 2015

DATED

ORDER WITH SIGNATURE OF JUDGE

17.08.2017

Mr.Nisar Ahmed Durrani, advocate for appellant
Mr.Jangu Khan, Special Prosecutor NAB

At the outset, learned counsel for the appellant Imdad Ali contends that he would not press the instant appeal on merits if the sentence awarded to the appellant is reduced to the period as already undergone. He further contends that almost the appellant Muhammad Ali has remained in prison for five years. Benefit of Section 382-B Cr.P.C. was awarded to him by the trial court; that the main accused Manzoor Shahani who was Operation Manager was acquitted by the trial court. Although he has strong case on merits but he is not pressing the same, in case the sentence is reduced to already undergone. It is also asserted that appellant is the only male member to earn bread and butter for his family and it would be in the interest of justice if his sentence is reduced to already undergone.

Learned Special Prosecutor NAB reluctantly opposed the submission of learned counsel for appellant, he however, contends that the sentence may be reduced up to 05 years and with regard to fine same may be reduced in case of non-payment from one year to six months.

Since the object of sentence is always important to be considered while awarding conviction which is reformation or deterrence. *Reformation* , if possible, should *normally* be given preference over *deterrence* hence a balance must always be maintained keeping *both* concepts in view. Admittedly main accused was acquitted by the trial court and appellant has served more than half sentence in prison as penal servitude; he was also removed from his service

thereby not only he but also his *family* stood penalized *financially* too and that prosecution did not claim convict/appellant to have remained involved in such like *offences*. Further there is no chance of repetition of offence as he is not in the same job. Thus, considering all these *facts*, plea of his being sole *bread-earner* as well with hope / expectation that in future he would be law abiding citizen of this country and that he would take his *release* so as to guide his *children* onto right *path*, we find it a fit case of reduction into sentence. Accordingly, the sentences of the appellant in both appeals are reduced from 07 years to 04 years and with regard to fine the sentences are reduced from one year to two months. The captioned appeals are disposed of with above modification in the impugned judgment. As well both the sentences awarded to the appellant shall run concurrently.

JUDGE

JUDGE

karar_hussain-memon/PS*