IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Revision Application No.S-101 of 2003
Criminal Revision Application No.S-10 of 2004

Date of hearing: 05.05.2017.

Date of decision: 05.05.2017.

Appellant :   Abdul Naeem (in person)

Appellant: Syed Iqbal Haider
                       Through Mr. Aslam Pervaiz Khan, Advocate.

Respondent :   The State
                       Through Mr. Shahid Ahmed Shaikh, A.P.G.
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J U D G M E N T

ABDUL MAALIK GADDI, J – Both these Criminal Revision Applications are being disposed of by this common judgment as the same arise out of one and same judgment.

2.   Through these Criminal Revision Applications applicants have assailed the legality and propriety of the judgment dated 16.06.2003 passed by the learned Civil Judge and Judicial Magistrate-X, Hyderabad in Criminal Case No.16 of 2002 (Re-The State v. Syed Iqbal Hyder and Abdul Naeem) under Crime No.2/2002 registered u/s 406, 408, 420, 468 PPC of P.S. Cantonment Hyderabad, whereby the learned trial court after full dressed trial convicted both applicants under Section 245(ii) Cr.P.C for offence under Section 408 PPC and sentenced them to suffer R.I for three years and to pay fine of Rs.15,000/- each or in default to further undergo R.I for six months more. The trial Court further convicted the applicant Abdul Naeem for

offence under Section 468 PPC and sentenced him to suffer R.I for three years and to pay fine of Rs.15000/- more and in default of payment of fine to further undergo R.I for six months. However, it was ordered that both sentences of applicant Abdul Naeem will run consecutively. The applicants were also extended benefit under Section 382-B Cr.P.C.

3. It appears from the record that after passing the said judgment the applicants were sent to jail to serve out all the sentences awarded to them. However, it further appears from the record that they being aggrieved and dissatisfied with the judgment dated 16.06.2003 filed their appeals being Criminal Appeals No.51 and 59 of 2003 respectively. It also appears from the record that the said appeals were dismissed vide judgment dated 16.10.2003 by the learned 6th Additional Sessions Judge Hyderabad by maintaining the convictions and sentences awarded to the applicants by the Trial Court. Hence these Criminal Revision Applications.

4. The brief facts of the prosecution as mentioned in the FIR lodged by complainant Fakir Muhammad, working as Finance Manager in Agha Company Pakistan are that complaints were received by the Head Officer about the mis-appropriation in the accounts in Branch of Agha Gavert Company, Saddar Hyderabad between 01.01.2001 to 05.01.2002, hence accused Iqbal Haider was appointed as Manager and was transferred from Karachi to Hyderabad Branch to look after the interest of the company. After one month of the posting of Iqbal Hyder and co-accused Abdul Naeem, who was working as Salesman were called at Karachi and enquired about the mis-appropriation, to which they failed to give satisfactory reply. Complainant Fakir Muhammad and PW Muhammad Zaheeruddin were sent by company

to Hyderabad for audit and after audit they found mis-appropriation of Rs.60 lacs in the company account. On enquiry by the complainant, accused Abdul Naeem issued twp cheeques amounting to Rs.6,56,000/- and other amounting to Rs.4,00,000/- of Habib Bank Limited, Shahi Bazaar Branch, Hyderabad but same were dishonoured. It is further alleged in the FIR that accused also issued threats of dire consequences to complainant and PW Zaheeruddin in case they made report to higher authorities. Hence, FIR was lodged.

5.   It is submitted by the applicants that on merits though they have a good case for their acquittal, but according to them, they are facing the agony of protracted trial since 2002, therefore, according to them, they would be satisfied and shall not press these Revision Applications on merits if the sentences awarded to them by the learned Trial Court and maintained by the first appellate Court are reduced to the period which they have remained in Jail. It is stated by the learned A.P.G that the applicant Abdul Naeem has remained in Jail for a period of 02 years and 11 days whereas applicant Syed Iqbal Haider has remained in jail for a period of 10 months and 10 days. However, they were granted bail by this Court during pendency of these Revision Applications on 20.01.2004 and 08.02.2004. Today, they are present on bail and have also repented and undertaken not to repeat such abrasive act in future.

6.   Learned A.P.G has also raised no objection on the above proposition.

7.   I have thoroughly examined the record. I am of the view that the conviction of the applicants is based on cogent reasons. The jail roll reflects that Abdul Naeem has remained in Jail for a period of 02

years and 11 days whereas applicant Syed Iqbal Haider has remained in jail for a period of 10 months and 10 days including remissions which appears that the applicants have been sufficiently punished. Besides, the applicants have repented and undertaken not to repeat such abrasive act in future. The applicants are first offenders. No past criminal history against them is placed on record. The offence pertains to 2002 and applicants apart from having faced agony of trial have also been pursuing the proceedings of the case since 2002, it means that they are pursuing their cases for the last about 15 years.

8. Consequently, the conviction is maintained, however, the sentences awarded to the applicants by the Trial Court are reduced to one which the applicants have already undergone and the fine of Rs.15000/- each is also remitted.

9. With the above modification in the sentence, these Criminal Revision Applications are dismissed. The applicants are present on bail, their bail bonds stand cancelled and surety discharged. This order has been passed in open Court after hearing the applicants and learned A.P.G who have acknowledged the same.

10. Since these Criminal Revision Applications have been dismissed the office is directed to return surety documents/amounts if already furnished/deposited before the Additional Registrar of this Court to the surety(s) after proper verification and identification.

JUDGE