

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Cr. Revision Application No. 172 of 2017

| Date | Order with Signature of the Judge |
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| 1. For hearing of case. | |
| 2. For hearing of M.A. No. 11354/2017. | |

Heard on 20th February, 2018.

Decided on April, 2018.

Mr. Qamar Iqbal, Advocate for the appellant/accused.
Mr. Deewan Bhuromal, D.D.P.P.

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MRS. KAUSAR SULTANA HUSSAIN, J.:- This Criminal Revision Application is directed against the judgment dated 13.10.2017 passed by the learned Vth Additional Sessions Judge East, Karachi, dismissing Criminal Appeal No. 13 of 2014 and maintaining the judgment passed by the learned IVth Assistant Sessions Judge East, Karachi, dated 27.11.2014 in Sessions Case No.1538 of 2013 regarding conviction of accused/appellant for commission of offence punishable U/S 23 (I) (A) Sindh Arms Act, 2013 and awarding sentence of R.I. for 02 years and payment of fine of Rs. 5000/- or in default further S.I. for one month more.

2. The evanescent facts as unfolded in the FIR No. 787 of 2013 are that on 02.11.2013 at late night a police party of Police Station CID Sindh Karachi arrested accused/appellant Malik Mohiuddin from Korangi Industrial Area, Karachi and recovered one un-licensed pistol of 30 bore without number loaded with magazine containing three live and one bullet in chamber from his possession under mashirnama in presence of mashirs Syed Gulsher and PC Sabir Hussain.

3. Mr. Qamar Iqbal, learned counsel for the appellant has submitted that the judgments of the two learned Courts suffer from serious illegalities and non-appreciation of evidence available on record. He has pointed out that the learned trial Court did not consider the contradiction and discrepancies in the evidence of the prosecution,

as the complainant Muneer Ahmed stated in his cross examination that he received spy information at police station but he did not remember the time, on the other hand he stated in his memo that he was on search for the proclaimed accused of the District East within local limits of Police Station Korangi Industrial Area, all the story of the prosecution is doubtful and cannot be used to punish the accused/appellant for such punishment. He has further pointed out that the learned trial Court did not consider that the time of incident is 01.15 hours whereas the FIR has been lodged at 03.00 hours and also did not consider that there is inordinate delay of 05 days for sending the alleged recovered pistol to the FSL as alleged incident was happened on 02.11.2013 whereas the same was sent to F.S.L on 07.11.2013. He has contended that the conviction and sentence recorded by the two learned Courts are not in consonance with the principles of fair administration of justice.

4. Mr. Deewan Bhuromal, the learned D.D.P.P. appearing on behalf of the State, has supported the conviction and sentence awarded by the learned trial Court and up holding thereof by the learned Appellate Court. He further stated that despite lengthy cross-examination of the P.Ws no fruitful result was secured and no major contradictions have been found in the prosecution evidence. Mr. Bhuromal, the learned D.D.P.P submitted that some minor discrepancies, which are immaterial cannot vitiate the evidence adduced by the prosecution, which on the contrary is inspiring confidence and no major contradictions were made on material ingredients of the case.

5. I have given my anxious consideration to the contentions raised by the learned advocates and have carefully perused the entire evidence available on record. After going through the entire record, I am of the opinion that the appellant could not shatter the prosecution

evidence and failed to prove any malafide on the part of police for falsely implicating him in this case. The prosecution through corroboration evidence proved that incident as mentioned in the FIR No. 789 of 2013 had been happened and police recovered an unlicensed pistol from the possession of the appellant/accused, which was sent to the office of F.S.L., who reported that three empties were fired from the pistol of 30 bore allegedly recovered from the possession of the appellant/accused. The appellant/accused has neither examined himself on Oath nor he could produce defence witness/s in support of his claim that he was apprehended by the police on 28.10.2013, when the appellant/accused and his brother were sitting in front of their house at about 2.30 PM when police took them to C.I.D Centre, Civil Line, and demanded illegal gratification of Rs. 50,000/- and after arranging Rs. 50,000/- as bribe they released his brother. The appellant/accused has failed to produce his brother before the learned trial Court in support of his version. The evidence adduced by the prosecution at trial is therefore, inspiring confidence. There is no illegality or any material irregularity causing miscarriage of justice is proved in the impugned judgment. Consequently, I after examining the record anxiously have reached at the conclusion that the prosecution has proved its case beyond any reasonable shadow of doubt. In these circumstances, I do not find any illegality in the appellant's guilt as to the commission of offence. The learned trial Court as well as learned appellate Court did not pass the impugned judgments beyond jurisdiction or on non-substantiated evidence. Consequently, I maintain the conviction and also that benefit of section 382-B Cr.P.C as exhibited by the learned trial Court in favour of the appellant/accused. The instant Criminal Revision Application, in view of the above is dismissed alongwith listed application.

J U D G E

Faheem Memon/PA