

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

Criminal Appeal No.S-11 of 2019

Date of hearing: 13.01.2020  
Date of Judgment 13.01.2020

Appellant : Abdul Hakeem S/o Muneer Ahmed Arain,  
Through Mr. Siraj Ahmed Khoso,  
Advocate

Complainant: through Mr. Karamullah Memon,  
Advocate

The State : Through Mr. Shahzado Saleem Nahiyoon,  
Deputy Prosecutor General

**JUDGMENT**

**Khadim Hussain Tunio, J,-** Through instant criminal appeal, appellant has impugned the judgment dated 10.01.2019 passed by learned IVth Additional Sessions Judge, Shaheed Benazirabad, in Sessions Case No.763 of 2017 (Re: the State v. Abdul Hakeem), culminated from Crime No.276 of 2017, registered at P.S A-Section, Nawabshah, under Section 23-A of Sindh Arms Act, 2013, whereby he has been convicted and sentenced to suffer R.I for 03 years and to pay fine of Rs.30,000/-. In case of default, he shall suffer S.I for three months more with benefit of Section 382-B Cr.P.C.

2. It is alleged that on 10.09.2017 appellant was apprehended by the Police party of P.S A-Section, Nawabshah, headed by SIP Gul Hassan Bhangwar and secured 30 bore pistol with magazine containing 05 live bullets in presence of witnesses HC Muhammad Ismail and PC Ali Akbar, for which F.I.R was lodged.

3. After registration of F.I.R, the Investigating Officer conducted usual investigation, recorded 161 Cr.P.C statements of the PWs, inspected place of incident, prepared memo of recovered weapon and sent it to FSL, collected report and submitted challan after concluding the investigation.

4. At trial, prosecution examined as many as two witnesses, namely HC Muhammad Ismail and SIP Gul Hassan Bhangwar, who produced various documents. Thereafter, prosecution side was closed.

5. Statement of accused U/S. 342 Cr.P.C was recorded in which the appellant denied the prosecution case in toto; however, he did not examine himself on oath to disprove of the charge nor examined any witnesses in his defence.

6. After hearing learned Counsel for the respective parties, learned trial Court convicted and sentenced the appellant as stated above; hence, this appeal has been preferred.

7. Learned Counsel for the appellant has submitted that he would be satisfied and shall not press this appeal on merits, if the sentence awarded to the appellant i.e. R.I for 03 years is reduced to one already undergone by him. He further argued that appellant is a poor person, first offender and is surviving bread earner of his family and while taking lenient view, his sentence may be reduced to one already undergone by him.

8. Learned D.P.G appearing for the state did not oppose the proposal submitted by the learned Counsel for the appellant.

9. I heard the learned Counsel for the respective parties and have perused the record. Perusal of record, it reflects that appellant was arrested on 10.09.2017 with crime weapon coupled with five live bullets. The prosecution has proved its case against the appellant beyond reasonable doubt; that there are no discrepancies in the evidence of the prosecution witnesses; that there is no legal flaw in the impugned judgment. The appellant has been awarded sentence to suffer R.I for 03 years vide judgment dated 10.01.2019. The appellant is a first offender and is only bread earner of his poor family. I, while taking lenient view against the appellant, who is sole bread earner of his poor family and being first offender, hold that the appellant has made out his case where he deserves leniency being proposed by the learned counsel as the sentence already undergone by the appellant is sufficient to learn lesson from.

10. In view of the foregoing, I dismiss this appeal and maintain the conviction and sentence awarded to the appellant by the learned trial Court vide judgment dated 10.01.2019; however, modify the conviction and sentence awarded to the appellant to one already undergone by him. Since the sentence awarded to the appellant is modified to one already undergone by him, therefore, he is ordered to be released forthwith in the instant case, if not required in any other custody case. As far as, the fine amount of Rs.30,000/- imposed against the appellant is concerned, the same is hereby maintained.

*JUDGE*