

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Criminal Jail Appeal No.D-192 of 2019**

Before;

Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Irshad Ali Shah

Appellant: Noor Muhammad son of Muhammad Achar
Thaheem, Through Mr. Farhad Ali Abro, Advocate.

State: Mr. Shahzad Saleem Nahiyoan, DPG.

Date of hearing: 16.12.2020

Date of decision: 16.12.2020

JUDGMENT

IRSHAD ALI SHAH, J. The appellant for being in possession of 05 kgs of charas was booked and reported upon by the police. On conclusion of trial, he for an offence punishable under section 9 (c) of CNS Act, 1997 was convicted and sentenced to undergo imprisonment for seven years and six months with fine of Rs.35,000/- and in case of his failure to make payment of fine to undergo imprisonment for six months and fifteen days by learned Sessions / Special Judge Control Narcotic Substance, Hyderabad vide his judgment dated 02.10.2019, which is impugned by the appellant before this Court by way of instant appeal.

2. At the very outset, it is stated by learned counsel for the appellant that he would not press the disposal of instant appeal on merits, if the sentence/conviction awarded to the appellant by learned trial Court is reduced to one which is already undergone by him for the reasons that he is the first offender and only earning member of his family.

3. Learned D.P.G for the State readily conceded to the above said proposal.

4. We have considered the above arguments and perused the record.

5. There is no independent witness to the incident. There is nothing on record which may suggest that the appellant is having a criminal record. The appellant is said to be the only earning member of his family and he has already suffered the agony of protracted trial for about three years which call for lenient action against the appellant. As per jail roll furnished by the jail authorities on 12.12.2020 the appellant has already undergone 02 years 10 months and 07 days of substantial sentence and beside this he has earned 01 year, 06 months and 29 days of remission, which appears to be sufficient punishment for the above said offence, in the circumstances of the case, therefore, the conviction/sentence awarded to the appellant is reduced to one which is already undergone by him with fine of Rs.10,000/- and in case of default to make payment of fine, he would undergo simple imprisonment for fifteen days with benefit of section 382-B Cr.P.C.

6. The instant appeal is disposed of accordingly.

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