

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Criminal Jail Appeal No.S- 286 of 2019

1. For orders on MA-8493/19
2. For hearing of main case.

Appellant: Mureed son of Versen Makwand,
Through Mr. Aslam Sipio, Advocate

State: Mr. Shahzado Saleem Nahiyoon, DPG.

Date of hearing: 22.11.2019

Date of decision: 22.11.2019

J U D G M E N T

1. Delay in filing of the appeal is condoned with the consent of learned D.P.G.

2. Facts in brief necessary for disposal of instant appeal are that the appellant during course of investigation in FIR crime No.48 of 2014 u/s 302, 34 PPC of PS Islamkot, agreed before complainant SIP Dur Muhammad to produce the weapon allegedly used by him in commission of above said incident and accordingly led the police party to recovery of unlicensed pistol of 32 bore with magazine containing three live bullets of same bore, for that he was booked and reported upon.

At trial, the appellant did not plead guilty to the charge and prosecution to prove it, examined complainant SIP Dur Muhammad Khoso and his witnesses and then closed the side.

The appellant in his statement recorded u/s 342 Cr.P.C denied the prosecution allegation by pleading innocence. He did

not examine himself on oath or anyone in his defence to disprove the prosecution allegation.

On evaluation of evidence, so produced by the prosecution, learned trial Court found the appellant guilty for the above said offence and then convicted and sentenced him to undergo Rigorous Imprisonment for Seven Years with fine of Rs.10,000/=and in case of his failure to make payment of such fine to undergo Simple Imprisonment for Six Months, vide his judgment dated 20.12.2018, which is impugned by the appellant before this Court by way of instant appeal.

It is contended by learned counsel for the appellant that the appellant being innocent has been involved in this case falsely by police by making foistation of unlicensed weapon upon him only to strengthen the main murder case in which he has already been acquitted by this Court in appeal. By contending so, he sought for acquittal of the appellant.

Learned D.P.G for the State has recorded no objection to acquittal of the appellant.

I have considered the above arguments and perused the record.

As per complainant SIP Dur Muhammad, the unlicensed pistol with magazine containing three live bullets were secured on the pointation of the appellant, which he prepared at the place of recovery. In that respect, he is belied by PW / Mashir Gulab by

stating that his signature on mashirnama was obtained by complainant SIP Dur Muhammad at police station. By stating so, he made the very recovery proceedings of unlicensed weapon under said mashrinama to be doubtful one. Even otherwise, the appellant has already been acquitted in main murder case and in these circumstances, learned DPG for the State has rightly recorded no objection to his (appellant) acquittal. Consequently, the appellant is acquitted of the offence for which he is charged, tried and convicted by the learned trial Court. He shall be released forthwith if, is not required in any other case.

The instant appeal is disposed of in above terms.

JUDGE

Ahmed/Pa