

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Cr.A.No.360 of 2017

Before:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Irshad Ali Shah

The State/Anti-Narcotics Force..... Appellant.

Versus

Rizwan Haider Zaidi and another..... Respondents.

Date of hearing: 14.01.2020

Mrs. Abida Parveen Channar, Special Prosecutor ANF Karachi.

J U D G M E N T

IRSHAD ALI SHAH, J:-The facts in brief necessary for disposal of instant appeal are that on arrest from accused Rizwan Haider Zaidi was secured 1100 grams of Heroin powder by police party of P.S.ANF Clifton Karachi, which allegedly was supplied to him by co-accused Muhammad Faizan, for that they were booked and reported upon alongwith absconding accused Muhammad Mohsin, Ali Gul and Rehmat Ali.

2. At trial accused Rizwan Haider Zaidi and Muhammad Faizan by way of making a joint application pleaded guilty to the charge. Consequently, they for an offence punishable under section 9 of CNS Act 1997 were convicted and sentenced to undergo rigorous imprisonment for one year and 10 month with fine of Rs.15000/-each and in case of default in making payment of fine to undergo simple imprisonment for five months each by learned Judge Special Court-II CNS Karachi vide his order dated 16.05.2017, which is impugned by the State/ANF before this court by way of preferring the instant appeal, whereby they have sought for enhancement of the conviction against accused Rizwan Haider Zaidi and Muhammad Faizan.

3. It is contended by learned Special Prosecutor for ANF that the case of prosecution stands proved, the moment accused Rizwan Haider Zaidi and Muhammad Faizan pleaded guilty to the charge by making joint application therefore, learned trial court ought not to have taken a lenient view against them. By contending so, she sought for enhancement of the conviction against accused Rizwan Haider Zaidi and Muhammad Faizan.

4. None has appeared on behalf of the accused Rizwan Haider Zaidi and Muhammad Faizan.

5. We have considered the arguments and perused the record.

6. No contraband substance was secured from accused Muhammad Faizan in person. The recovery if any, was made from accused Rizwan Haider Zaidi. It was weighed to be 1100 grams of Heroin powder. Out of it only 30 grams of the Heroin powder has been subjected to chemical examination which appears to be significant. At trial both of the accused have pleaded guilty to the charge voluntarily by making a joint statement by doing so, they save the precious time of the court which was going to be consumed on trial. Nothing has been brought on record of this court, which may suggest that any of the accused was having a criminal record. In that situation, learned trial court was right to take lenient view against the accused. Depart from sentencing policy has been made available in *Murtaza's case (PLD 2009 Lahore 362)*. In these circumstances no case for enhancement of the conviction awarded to the said accused is made out. Consequently the instant appeal is dismissed.

JUDGE

JUDGE