

JUDGMENT SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Jail Appeal No.S- 206 of 2007

Date of hearing                      17.02.2020.  
Date of judgement:                17.02.2020.

Appellant Farvo son of Kadero Bheel is present on bail.  
Mr. Raja Hans Raj Naurang, Advocate for appellant.  
Mr. Shawak Rathore, D.P.G. for the State.  
None present for complainant.

J U D G M E N T

**ABDUL MAALIK GADDI, J-** Through this criminal jail appeal, the appellant Farvo has challenged the judgment dated 24.08.2007 passed by learned 2<sup>nd</sup> Additional Sessions Judge, Badin in Sessions Case No.73 of 2005 (Re-The State v. Farvo) arising out of crime No.32/2005 for offences punishable u/s 334, 337-A(ii), 337-F(ii), 337-L(ii), 337-A(i), 337-F(i) PPC, registered at Police Station Matli, whereby the learned trial court after hearing the learned counsel for the parties as mentioned in the judgment, convicted the appellant u/s 334 PPC and sentenced him to suffer rigorous imprisonment for seven (07) years and to pay Arsh amount to Rs.50,000/-. The appellant was also convicted u/s 337-A(ii) PPC and sentenced to suffer RI for four (04) years and shall also pay amount of Rs.30,000/- as Daman. The amount so recovered be paid to the injured Shrimati Meeran. However, benefit of Section 382-B Cr.P.C was extended to the appellant.

2. Brief facts of the case are that complainant used to cultivate the land and one Muhammad Ali Shaikh is brother of the wife of complainant and they reside in the house surrounded by same hedge. Shrimati Meeran, 3<sup>rd</sup> daughter of complainant was married with accused Farvo and residing with him in his house situated in Dumbalo. Accused used to restrain her from visiting the house of parents. One day before lodging of the F.I.R, Shrimati Meeran wife of accused came to the house of complainant and she was followed by her husband Farvo and both stayed

night there. Complainant on the day of incident had gone out of house towards water course for having bath when at about 6:00 AM, he heard cries of Shrimati Meeran as such he went running there. PW Muhammad Ali also arrived there and they saw accused Farvo having Sickie in his hand and he was repeatedly causing blows on the different parts of body of Shrimati Meeran. One Aijaz Ali who is neighborer of complainant also came at the spot and saw the incident. They caught hold of accused Farvo who also sustained injuries in the scuffle and saw that Shrimati Meeran has sustained serious injuries on her forehead, hands and other parts of body and one Finger of left hand was cut and separated from which blood was oozing. Complainant then arranged vehicle and took his daughter to Matli Hospital and left Muhammad Ali over the accused Farvo and went to police and lodged report.

3. Charge was framed against accused at Ex.03 to which he pleaded not guilty and claimed his trial.

4. Prosecution in order to prove its case examined following witnesses at trial:

PW-1 Muhammad Ali at Ex.05  
 PW-2 Misri at Ex.06  
 PW-3 Injured Shrimati Meeran at Ex.12  
 PW-4 Aijaz at Ex.14  
 PW-5 Complainant Leemoon alias Latif at Ex.15  
 PW-6 WMO Dr. Naziran at Ex.17  
 PW-7 Investigating Officer Dur Muhammad at Ex.20  
 PW-8 ASI Dodo Khan at Ex.21

Thereafter prosecution side was closed at Ex.22.

5. Statement of accused was recorded under Section 342 Cr.P.C at Ex.23, wherein he denied all the prosecution allegations and taken plea that in fact he had gone to the house of his father in law for taking his wife who was willing and happy to reside with him. He further contended that his father in law came and attacked upon him with hatchet but due to intervention of Shrimati Meeran she sustained injuries at the hands of her father when she tried to save him. However, neither he examined himself on Oath nor any witness in his defence.

6. Mr. Raja Hans Naurang, learned counsel for the appellant mainly contended that appellant is innocent and has falsely been involved in the case in hand; that actually he was attacked by his father in law while he had gone for taking his wife; that the recovery of Sickle has been foisted upon him; that all the witnesses are interested hence their evidence is not trustworthy and liable to be disbelieved. Lastly, he contended that the appellant was arrested on 21.04.2005 and he has remained in jail during trial for more than 03 years hence he prays that the sentence awarded to the appellant may be reduced to one already undergone.

7. On the other hand, learned D.P.G. appearing on behalf of the State contended that appellant duly armed with Sickle has brutally caused 18 injuries to his wife Shrimati Meeran; that medical evidence is corroborated with ocular version; that recovery of blood stained Sickle has been affected from the appellant, that the learned trial court has already taken lenient view while awarding the sentence of 07 years u/s 334 PPC instead of 10 years hence no case for reducing the sentence to one already undergone is made out.

8. I have heard learned counsel for the appellant, learned D.P.G. for the State and perused the entire evidence / material available on record.

9. Admittedly, as per medical evidence which is the main aspect of the case, the present appellant at the time of incident duly armed with Sickle has caused in as much as 18 injuries on the person of victim Shrimati Meeran (her wife) and she was saved luckily due to intervention of her father (complainant) and other eye witnesses namely Muhammad Ali and Aijaz. As per medical record, the injured remained in the Hospital for more than 21 days. Furthermore, it appears that the said medical evidence even has not been challenged by the appellant during the trial by way of cross examination.

10. I have also minutely examined the evidence of complainant and PWs Muhammad Ali and Aijaz who are the eye witnesses of the incident so also the evidence of Shrimati Meeran (victim) who is the star witness and find no any material contradiction in their evidence and their evidence find full corroboration on all material aspects of the case. Furthermore, the appellant was caught hold at the spot by above named witnesses and

he has not suggested any enmity whatsoever with these eye witnesses. Arrest of the appellant so also recovery of blood stained Sickle from his possession has been supported by the mashir namely Misri. No any strong evidence / material is available on record to discard the evidence of prosecution witnesses which otherwise is fully corroborative.

11. So far as the contention of learned counsel for appellant that the sentence awarded to the appellant by the trial court may be reduced to one already undergone, it appears that learned trial court has already taken lenient view while awarding the sentence to the appellant. However, while looking to the mitigating circumstances of the case and as per statement of the appellant made by him today in court that victim Shrimati Meeran has expired some months ago by her natural death and he has also a son from victim namely Shakeel and he has to look after him. Appellant is of a young age and is only the male member of his family. He is facing agony of protracted trial since the date of his arrest viz. 21.04.2005. Furthermore, he has remained in jail for more than 03 years and his sentence was suspended by this court and he was released on bail vide order dated 04.06.2008.

12. In view of the above, instant appeal is hereby dismissed and the conviction and sentence awarded to the appellant by trial court through impugned judgment are maintained however, with a modification in terms that sentence awarded to appellant by the trial court u/s 334 PPC is reduced from 07 years RI to 04 years and u/s 337-A(ii) PPC is also reduced from 04 years RI to 02 years. However, the amount of Arsh Rs.50,000/- and amount of Daman Rs.30,000/- shall be paid by the appellant as directed to him in the impugned judgment. Both the sentences shall run concurrently. Benefit of Section 382-B Cr.P.C. shall also be extended to the appellant. The appellant is present on bail. He is taken into custody and remanded to Jail with direction to serve out his modified / reduced conviction and sentence as mentioned above.

JUDGE

Tufail