

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Appeal No.556 of 2019

<i>Date</i>	<i>Order with signature of Judge</i>
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1. *For hearing of Case.*
2. *For hearing of M.A No.9400/2019.*

26.01.2021

Raja Rashid Ali, Advocate for the Appellant.
Ms. Shehzana Latif, Assistant Prosecutor General, Sindh.

ORDER

Muhammad Saleem Jessar, J:- This appeal is directed against the judgment dated **21.08.2019** passed by learned IInd Additional District & Sessions Judge, Karachi (West), in the S.C No.1298/2018, arisen out of Crime No.140/2018, registered at P.S Site-B, Karachi, for offence under Section 392/394/397/34 PPC; whereby the appellants Zubair Ahmed and Abdul Rasheed were convicted and sentenced to Seven years rigorous imprisonment and fine of Rs.10,000/- each, and in default in payment of fine to suffer S.I for a period of one month more as simple imprisonment; however, benefit of section 382-B Cr.P.C was also extended to the appellants/convict.

Pursuant to directions contained under earlier order, Senior Superintendent, Central Prison & Correctional Facility, Karachi has submitted jail roll of both appellants dated 21.01.2021, which reveals that appellants Zubair Ahmed and Abdul Rasheed have earned remissions upto 26.01.2021 as 01 years, 06 months and 18 days and have served out sentence without remissions 02 years, 06 months and 22 days; however, have served out sentence including remissions 04 years, 01 months and 10 days and unexpired portion of their sentence is 02 years, 11 months and 20 days.

Learned counsel for appellants has prayed for a lenient view in the case, on the ground that the appellants and their family members are extremely poor, and they are the only earning member of their families;

during confinement of appellants in jail, their family members are on the brink of starvation. He further contended that the appellants have served out more than half portion of sentence awarded to them, and their conduct in jail has remained satisfactory; as reported in the jail-roll.

Learned Assistant Prosecutor General, Sindh, has conceded to the above submission made by learned counsel for appellants and extended no objection, if conviction and sentence of appellants is modified and reduced to a period already undergone by the appellants.

I have considered the submissions made by learned counsel for appellants that the appellants and their families are extremely poor persons and their family members are virtually starving, due to confinement of the appellants in jail. Perusal of the jail-roll shows that the appellants have served out about half of portion of the sentence including remission and their conduct in jail is satisfactory.

In the given circumstances I am inclined to take a lenient view in the matter. Accordingly, the sentence awarded to the appellants including the period they were to undergo in lieu of fine, is reduced to the period of their detention in jail they have already undergone. With the above modification in the sentence of appellants, this appeal is dismissed. Impugned judgment dated 21.08.2019 passed by IInd Additional District & Sessions Judge, Karachi (West) vide Sessions Case No.1298/2018 (re-the State Versus Zubair Ahmed and another) being outcome of FIR No.140/2018, of P.S Site-B, Karachi, under Section 392/394/397/34 PPC, is hereby maintained; however, the sentences awarded to the appellants are hereby modified in the terms stated above. The appellants (i) **Zubair Ahmed son of Imam Bux** and (ii) **Abdul Rasheed son of Abdul Sattar** shall be released forthwith, if their custody is not required in any other case.

JUDGE

Zulfiqar/P.A