

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI,
CrI. Appeal No. 140 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of case.
2. For hearing of M.A. No. 2403 of 2021.

08th April 2021

Syed Naimatullah Shah, advocate for appellants.
Mr. Siraj Ali Khan Chandio, Addl. P.G. Sindh.

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Appellants have challenged impugned judgment dated 02.02.2021 passed in SC No. 282 of 2011 arising out of FIR No. 36/2011, under section 324/PPC registered at Police Station Baloch Colony, Karachi, whereby the appellant Wasim Butt was convicted under Section 324 PPC and sentenced to undergo rigorous imprisonment, under Section 265-H(ii) Cr.P.C for three (03) years and to pay a fine of Rs.25,000/-, in default whereof he was ordered to suffer simple imprisonment for three months more by extending him the benefit in terms of Section 382-B, Cr.P.C, whereas, Appellant Nadeem Butt was convicted under Section 324/34 PPC and sentenced to undergo rigorous imprisonment, under Section 265-H(ii) Cr.P.C for two (02) years and to pay a fine of Rs.10,000/-, in default whereof he was ordered to suffer simple imprisonment for three months more with benefit of section 382-B Cr.P.C.

2. Heard and perused the record.
3. At this juncture, learned counsel for the appellants contends that he would be satisfied if this Court reduces the sentence awarded to the appellants to a reasonable period as deem fit and proper in view of the fact that the appellants are young age; they are sole bread earners of their family. Jail Roll of the appellant was called from the concerned Jail Authorities. As per Jail Roll, appellant Nadeem Butt has served nine months and five days sentence including remission, whereas, appellant Waseem Butt has served one year, 11 months and 28 days sentence including remission. Such a proposal is not disputed by learned Addl.PG.
4. *Quantum of punishment* is not only discretion of the Court, which has to be exercised while considering the circumstances of the case, but also is an

independent aspect of Criminal Administration of Justice which, too, requires to be done keeping the concept of *punishment* in view.

5. Since, the appellants are not pressing captioned appeals on merits but seeking reduction of sentence, therefore, I would examine the legality of such plea. Conceptually, punishment to an accused is awarded on the concept of retribution, deterrence or reformation so as to bring peace which could only be achieved either by keeping evils away (criminals inside jail) or strengthening the society by reforming the guilty. There are certain offences, the punishment whereof is with phrase “**not less than**” while there are other which are with phrase “**may extend upto**”. Thus, it is quite obvious and clear that the law itself has categorized the offences in *two* categories regarding quantum of punishment. For one category the Courts are empowered to award *any* sentence while in *other* category the discretion has been limited by use of the phrase ‘**not less than**’. Such difference itself is indicative that the Courts have to appreciate certain circumstances before setting quantum of punishment in *first* category which appear to be dealing with those offences, the guilty whereof may be given an opportunity of “**reformation**” by awarding less punishment which how low-so-ever, may be, will be legal. The concept of reformation should be given much weight because conviction normally does not punish the guilty only but whole of his family/dependents too. A reformed person will not only be a better brick for society but may also be helpful for future by properly raising his dependents.

6. Since, the offences wherein the appellants have been convicted fall within the category of offences ‘*may extend upto*’; the appellants claim themselves to be sole bread earner; they are of young age; these are circumstances which justify reduction in sentence.

7. In view of above, it would be in the interest of justice to reduce the sentence awarded to the appellants to already undergone. Accordingly, conviction is maintained but sentence is reduced to one already undergone by the appellants.

Appellants shall be released forthwith if not required in any other custody case.

JUDGE