

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI,

DATE	ORDER WITH SIGNATURE OF JUDGE
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Crl. Appeal No. 511 of 2020

1. For hearing of case.
2. For hearing of M.A. No. 10911 of 2021.

Crl. Appeal No. 524 of 2020

1. For hearing of case.
2. For hearing of M.A. No. 11055 of 2020.

19th April 2021

Mr. Islam Leghari, advocate for appellants in Crl. Appeal No. 511 of 2020.

Mr. Abdul Qadir Khaskheli, advocate for appellant in Crl. Appeal No. 524 of 2020.

Mr. Siraj Ali Khan Chandio, Addl. P.G. Sindh.

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Appellants have challenged impugned judgment dated 18.11.2020 passed in SC No. 146 of 2016 arising out of FIR No. 336/2015, under section 392/397/34PPC registered at Police Station Jamshed Quarters, Karachi, whereby the appellants Ayaz Ali S/o. Jumman Shah, Shiraz Ahmed S/o. Mumtaz Ahmed and Muhammad Zulfiqar S/o. Muhammad Haroon convicted under Section 397 PPC and sentenced to undergo rigorous imprisonment, under Section 265-H(ii) Cr.P.C for seven years (07) each. Benefit of section 382- B is also extended.

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 Shiraz Ahmed has served six months and one day sentence including remission, Appellant Muhammad Zulfiqar has served eight months and seventeen days' sentence including remission and Ayaz Ali has served six months and ten 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.

6. 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.

7. Besides; FIR was lodged under Section 392 PPC, whereas challan was submitted in addition of section 397 PPC. Candidly, ingredients of Section 397 PPC are lacking in this case, as nothing has come on record that this was the case of death or grave hurt while committing robbery.

8. 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.

9. 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 converted from Section 397 to 392 PPC but sentence is reduced to one already undergone by the appellants.

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

Sajid

JUDGE