

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT  
HYDERABAD**

Criminal Appeal No.S-334 of 2019  
Criminal Appeal No.S-335 of 2019

Date of hearing: 01.04.2022

Date of Judgment 01.04.2022

Appellants : Asad and Gul Muhammad  
Through Mr. Muhammad Jamil Ahmed,  
Advocate

The State : Through Mr. Shahzado Saleem Nahiyoon,  
Additional Prosecutor General

*SALAHUDDIN PANHWAR, I/-* Through the captioned criminal appeals, appellants have impugned the judgment dated 25.10.2022 passed by learned Additional Sessions Judge-I / Model Criminal Trial Court, Mirpurkhas, for offence under Section 23(1)(a) of Sindh Arms Act, 2013, whereby the learned Judge convicted and sentenced the appellants to suffer R.I for 5 years, besides to pay fine of Rs.50,000/- each.

2. At the very outset, the learned Counsel for the appellants contends that he would be satisfied and shall not press this appeal on merits, if the sentence awarded to the appellants i.e. R.I for 05 years is reduced to one already undergone by them including the conviction in lieu of fine. He further submits that appellants are poor persons and are surviving bread earners of their family hence prayed for lenient view.

3. Learned A.P.G has conceded to the proposition of appellants' Counsel that sentence awarded to the appellants may be reduced to already undergone.

5. *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.

6. Since, 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.

7. Since the appellants in main case bearing Crime No.77 of 2018 registered at P.S Digri for offences under Sections 302, 114, 34 PPC have been acquitted by way of compromise entered into between the parties, therefore, keeping in view, the phrase “**may extend upto**” and the circumstances explained herein above and also by taking lenient view against appellants as they are only bread earners of their respective families, hold that the appellants have made out their case where they deserve leniency being proposed by the learned Counsel. Hence, I find it appropriate to reduce the sentence of the appellants from five (05) years to the one already undergone.

9. In view of above, these appeals are dismissed and conviction and sentence awarded to the appellants by the learned trial Court vide judgment dated 25.10.2022 is maintained, however, reduce the sentence awarded to appellants to one already undergone by them. With regard to the conviction period in lieu of non-payment of fine of Rs.50,000/- is concerned, the same shall also include into the sentence already undergone by them. Accordingly, both appellants shall be released forthwith if not required in any other custody case. The appeals are disposed of accordingly.

Captioned Criminal Appeals stand disposed of in the foregoing terms.  
Office to place copy of this order in other connected appeal.

*JUDGE*

Shahid