

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI,
Crl. Revision Application No. 30 of 2021

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For hearing of case.
2. For hearing of M.A. No. 1202 of 2021.

22nd April 2021

Mr. Moulvi Iqbal Haider, advocate for appellant.
Mr. Siraj Ali Khan Chandio, Addl. P.G. Sindh.
Mr. Adil Khan Abbasi, advocate for Respondent No.1.

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Through instant Crl. Rev. Application, the applicant has assailed conviction and sentence recorded by the learned Judicial Magistrate-II, Karachi [East] vide judgment dated 03.11.2020, passed in Criminal Case No.1062 of 2018, arising out of FIR No.396 of 2018 under Section 420/489-F PPC, registered at Police Station Gulshan-e-Iqbal, Karachi, whereby he was convicted under Section 245(ii) Cr.P.C and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.10,000/-, in default whereof he was ordered to suffer simple imprisonment for one month more, however, benefit in terms of Section 382-B, Cr.P.C. was extended in his favour.

2. Against the conviction and sentence, referred herein above, the applicant preferred Criminal Appeal No.47 of 2020, which was dismissed by the learned Additional Sessions Judge-II, Karachi [East] vide order dated 21.01.2021.

3. Heard and perused the record.

4. At this juncture, learned counsel for the applicant contends that he would be satisfied if this Court reduces the sentence awarded to the applicant to a reasonable period as deem fit and proper in view of the fact that the applicant is young age; he is sole bread earner of his family. Jail Roll of the applicant was called from the concerned Jail Authorities. As per Jail Roll, applicant has served six months and 13 days' sentence including remission, Such a proposal is not disputed by learned Addl.PG as well as learned counsel for the respondent No.1.

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 applicant is not pressing instant CrI. Revision. Application 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. Since, the offences wherein the applicant has been convicted fall within the category of offences ‘*may extend upto*’; the applicant claim himself to be sole bread earner; he is of young age; these are circumstances which justify reduction in sentence.

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

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

JUDGE