

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-31 of 2014

Appellant: Saleh Mallah present on bail in person..

Respondent: The State through Mr. Shahid Ahmed Shaikh, Deputy Prosecutor General Sindh.

Date of hearing: 26.09.2022.

Date of Decision: 26.09.2022.

**JUDGMENT**

**AMJAD ALI SAHITO, J.** Through the captioned Criminal Appeal, the appellant has challenged the judgment dated 19.02.2014, passed by learned 1<sup>st</sup> Additional Sessions Judge, Badin in Sessions Case No.184 of 2012, Crime No.229 of 2012 registered at PS Badin for the offence under section 395, 412, 109 PPC, whereby the appellant was convicted for the offence under section 412 PPC and sentenced to suffer Rigorous Imprisonment for a term of two years with fine of Rs.5,000/- [rupees five thousand only] or in default whereof, he should further undergo for three months. However, benefit of section 382-B Cr.P.C. was extended to the appellant.

**2.** Appellant present in person has stated that he is the only bread earner of his family; the offence pertains to the year 2012 and he has remained in Jail for sufficient period and still is being dragged in the instant case; as such, he does not wish to contest this Criminal Appeal and leaves himself at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the sentence to one he has already undergone, he would not press the Criminal Appeal.

**3.** On the other hand, learned Deputy Prosecutor General Sindh appearing for the State has opposed the acquittal of appellant but raised no objection in case, a lenient view is

taken against him by dismissing the appeal treating the sentence to one as already undergone as the appellant has remained in Jail for about six months.

**4.** I have heard the appellant, learned D.P.G. for the State and have gone through the record. It appears that this criminal appeal is pending before this Court since 2014 and the matter pertains to the year 2012. The appellant had been attending the learned trial Court as well as this Court and has remained in jail for a period of six months of his sentence and learned the lesson. The punishment awarded to the accused is upto two years, therefore, there is no legal impediment in accepting the request of the appellant. Only in order to enable the appellant to reform and rehabilitate himself to rejoin the mainstream life to once again become a useful member thereof, by taking leniency, instant Criminal Appeal is **dismissed** but with modification that the sentence including fine amount is reduced to one as the appellant has already undergone. Appellant is present on bail; he is released. His bail bonds stand cancelled and surety discharged. Office is directed to return the surety papers to the surety after proper verification and identification.

**5.** Instant Criminal Appeal is **dismissed** with the above modification.

**JUDGE**