

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-178 of 2010

Appellant: Qamaruddin present on bail through Mr. Muhammad Ali Shaikh, advocate.

Respondent: The State through Mr. Muhammad Noonari, Deputy Prosecutor General Sindh.

Complainant: None present.

Date of hearing: 22.09.2022.

Date of Decision: 22.09.2022.

**J U D G M E N T**

**AMJAD ALI SAHITO, J.** Through the captioned Criminal Appeal, the appellant has challenged the judgment dated 31.05.2010, passed by learned II<sup>nd</sup> Additional Sessions Judge, Hyderabad in Sessions Case No.305 of 2007, Crime No.15 of 2007 registered at PS Cantonment, District Hyderabad for the offence under section 324, 337-F (v), F(i), 279, 34 PPC, whereby the appellant was convicted and sentenced as under:-

“for offences under sections 337-F (v) and 337-F (i) PPC appellant is convicted and sentenced to pay Daman of Rs.1,00,000/- [rupees one hundred thousand] in lump sum to the victim. This amount is awarded for the expenses incurred on the treatment of victim as compensation and for the anguish suffered by the victim. Imprisonment for a term of three years as Tazir for the offence under section 337-F (v) PPC and to pay Daman of Rs.10,000/- [rupees ten thousand only] each for two injuries total amounting Rs.20,000/- [rupees twenty thousand only] for the offence under section 337-F (i) PPC. Also convicted with imprisonment for one year as Tazir for offence under section 337-F (i) PPC. All the sentences were ordered to run concurrently. In case the convict failed to pay Daman or any part thereof he may be kept in jail and dealt with same manner as if sentenced to simple imprisonment until the Daman amount is paid full as provided under section 337-Y (2)

PPC. The above amount is to be paid to the victim.

**2.** Learned counsel for the appellant, after arguing the matter at some length has stated that the offence pertains to the year 2007 and the appellant 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 the appellant at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the sentence to one the appellant 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 opposes the acquittal of appellant but raises no objection in case, a lenient view is taken against him by dismissing the appeal treating the sentence to one as already undergone and to pay daman / compensation amount.

**4.** I have heard the learned counsel for 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 2010 and the matter pertains to the year 2007. The appellant had been attending the learned trial Court as well as this Court and has remained in jail for some period of his sentence and learned the lesson. The punishment awarded to the accused is upto three years, therefore, there is no legal impediment in accepting 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 is reduced to one as already undergone by the appellant with order to deposit Daman / compensation amount Rs.50,000/-[rupees fifty thousand only] instead as directed in the impugned judgment, which the appellant has already deposited at the direction of this Court. Since the Daman / compensation amount was directed to be

given to the victim in the impugned judgment, as such, Accountant of this Court is directed to deliver the same to him. 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**

**\*Abdullah Channa/P.S\***