

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-54 of 2022

Appellant: Gul Muhammad Sipio through Mr.Ghulamullah Chang, Advocate.

Respondent: The State through Mr. Shahnawaz Brohi Special Prosecutor Anti-Narcotic Force.

Date of hearing: 06.09.2022.

Date of Decision: 06.09.2022.

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

**AMJAD ALI SAHITO, J.** Through this Criminal Appeal, the appellant has challenged the judgment dated 21.04.2021, passed by learned III<sup>rd</sup> Additional Sessions Judge / Special Judge Control of Narcotics Substance Act, Hyderabad in Special Case No.79 of 2016, Crime No.DO40402116 of 2016 registered at PS ANF, Hyderabad for the offence under section 9 (c) CNS Act, 1997, whereby the appellant was convicted and sentenced for the offence u/s 9 (c) CNS Act, 1997 for possessing 1385 grams of charas to undergo R.I. for three years and pay fine to the tune of Rs.100,000/-; in case of default to undergo S.I. for six months more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

**2.** Learned counsel for the appellant, at the very outset, has stated that the appellant is only bread earner of his family 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 leave the appellant 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 Special Prosecutor A.N.F. has vehemently opposed the proposal of learned counsel for the appellant. He further contended that the appellant has been captured with narcotics, therefore, he does not deserve for any leniency. He has supported the impugned judgment and prayed for dismissal of instant appeal.

4. We have heard the learned counsel for the appellant, learned Special Prosecutor A.N.F. and have gone through the record. The witnesses have supported each other on all salient features of the case and there appears to be no worthwhile contradictions. However, the offence pertains to the year 2016. The Jail Roll of the appellant was called from the concerned Jail, which reflects that the appellant has served out two years, eight months and one day including remission. The appellant is sole bread earner of his family and has remained in jail and learned the lesson as he has undergone sufficient period of his sentence. The punishment awarded to the appellant is three years, therefore, there is no legal impediment in accepting request of learned counsel for the appellant. In this regard, we are fortified from the judgment of Honorable Supreme Court in an unreported case '**Mst. Sughran & Mst. Khalida v. The State**' [**Criminal Appeal No.125 of 2020**], whereby it is held that:-

“The primary purpose behind the Criminal Justice System is to enable an offender to reform and rehabilitate him / herself to rejoin the mainstream life to once again become a useful member thereof. It is not to wreak vengeance. In the present case, we have not been able to find out any material / circumstance to view the appellant or her deceased partner as being privy at the helm of the consignment; abandoned by those who ensnared them into the trap, they struggled for their release on their own through jail petitions after a trial conducted without craft. Substantial period already served out, death of identically placed inmate in the prison, are factors perhaps failing to individually qualify, nonetheless, taken into consideration together, cumulatively make out a case to reduce her sentence to the period already undergone. Reduction in fine to the tune of Rs.30000/- or to undergo three months SI in the

event of default shall also be a conscionable arrangement. With the above modification, the appeal is partly allowed.”

**5.** 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 and keeping in view the Honourable Supreme Court’s decision [supra], instant Criminal Appeal is dismissed but with the reduction of his sentence to one as already undergone by the appellant and reduction in fine to the tune of Rs.30,000/- or in default whereof, to undergo three months S.I.

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

**JUDGE**

**JUDGE**