

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

Criminal Appeal No.S-152 of 2013  
Criminal Appeal No.S-153 of 2013  
Criminal appeal No.S-154 of 2013

Appellants: Abdul Hafeez [Cr. Appeal No.S-152/2013]  
through Mr. Aijaz Shaikh, advocate.

Sheeraz [Cr. Appeal No.S-153/2013] and  
Zahid Hussain [Cr. Appeal No.S-154/2013]  
through Mr. Ghulam Shabbir Mari,  
Advocate. Appellants are present on bail.

The State: Through Ms. Rameshan Oad, Assistant  
Prosecutor General Sindh.

Date of hearing: 26.04.2023.

Date of decision: 26.04.2023.

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

**Amjad Ali Sahito, J.-** In terms of impugned judgment dated 25.11.2013, passed by the learned 1<sup>st</sup> Sessions Judge, Hyderabad in S.C. No.298/2012, Crime No.60/2012 for the offences under sections 393, 319, 353, 34 PPC registered at PS Husri, the appellants were convicted for offence under section 319 PPC and sentenced to suffer R.I. for five years and to pay Diyat at Rs.200,000.00 [Rupees two hundred thousand only] each. They were also convicted for the offence under section 353 PPC and sentenced to undergo R.I. for two years with fine of Rs.50,000.00 [Rupees fifty thousand only] each; and in default whereof, to suffer S.I. for six months more. All the sentences were ordered to run concurrently. Since the impugned judgment is one and same, as such, these appeals are also disposed of by this common Judgment.

**2.** Mr. Ghulam Shabbir Mari, advocate representing the appellants namely, Zahid Hussain and Sheeraz states that section

393 PPC is not applicable in the instant case as no robbery was effected from any person. He states that so far sections 319 and 353 PPC are concerned, the appellants have remained sufficient time in Jail and pleads that the sentence awarded to the appellants may be treated as they have already undergone; however, he prays that the Diyat and fine amount may be reduced and order for easy installments as they are ready to deposit 1<sup>st</sup> installment today. Whereas, Mr. Aijaz Shaikh, learned counsel representing the appellant Abdul Haez states that no role has been assigned against him, therefore, he is liable to acquitted of the charge.

**3.** The above contentions and proposal of the learned counsel for the appellants is not opposed by the learned A.P.G. Sindh; however, she admits that there is no role against appellant Abdul Hafeez.

**4.** Heard and perused the record carefully. After meticulous scrutiny of the record, it appears that there is no formation of the offence under section 393 PPC as no robbery was effected; even learned trial Court has not awarded punishment under this section. However, learned trial Court has also awarded conviction and sentences for the remaining offences punishable under sections 319 and 353 PPC. There is no objection on behalf of the State to the proposal submitted by the learned counsel for the appellants.

**5.** In view of the above facts and circumstances, impugned judgment is set aside to the extent of the appellant Abdul Hafeez. He is acquitted of the charge. He is present on bail, his bail bonds stands cancelled and surety discharged to be returned to the surety after his proper verification and identification. Whereas, the sentence awarded to the appellants namely, Zahid Hussain and Sheeraz is modified and treated as they have already undergone; however, the Diyat amount Rs.200,000.00 [Rupees two hundred thousand only] is to be paid by the appellants respectively in two easy installments whereas fine amount Rs.50,000.00 [Rupees fifty thousand only] each is reduced to Rs.10,000.00 [Rupees ten thousand only] each to be

paid by the appellants. At the direction of this Court, the appellants Zahid Hussain and Sheerz have deposited half of the Diyat Rs.100,000.00 [Rupees one hundred thousand only] each and reduced fine amount to Rs.10,000.00 [Rupees ten thousand only] each, with the Accountant of this Court and produced such receipt, which is taken on record. For remaining Diyat amount Rs.100,000.00 [Rupees one hundred thousand only] each, learned counsel requests that the appellants will deposit the same on or before 10.06.2023. Such request is allowed. The surety bonds executed and surety already furnished on behalf of the appellants namely, Zahid Hussain and Sheerz shall be discharged and returned to the surety[-ies] after the remaining installment of Diyat amount Rs.100,000.00 [Rupees one hundred thousand only] each by the appellants is deposited. The Diyat amount being deposited by the appellants shall be given to the legal heirs of deceased ASI Sardar Muhammad Khan by the Accountant of this Court, after proper verification and identification.

**6.** With the above modification, these appeals stands disposed of.

JUDGE