

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Jail Appeal No. 668 of 2021

Appellant: Muhammad Ashiq through Mr. Muhammad Hanif Noonari, advocate

The State: Mr. Khadim Hussain Khuharo, Additional Prosecutor General for the State

Date of hearing: 17.08.2023

Date of judgment: 17.08.2023

J U D G M E N T

IRSHAD ALI SHAH, J- The appellant is alleged to have subjected Mst. Maria a girl aged about 15 years, his own daughter to rape, for that he was booked and reported upon. On conclusion of trial, he was convicted under Section 376 PPC and sentenced to undergo rigorous imprisonment for life and to pay fine of Rs.100,000/- and in default whereof to undergo simple imprisonment for 03 months with benefit of section 382(b) Cr.P.C by learned III-Additional District and Sessions Judge, Karachi South vide judgment dated 30.10.2021, which is impugned by him before this Court by preferring the instant appeal from jail.

2. At the very outset, it is stated by learned counsel for the appellant that the minimum sentence prescribed for alleged offences is 10 years with fine; the appellant as per jail roll inclusive of remission has already undergone 12 years, 11 month and 16 days of the sentence, therefore, under instructions he would not press the disposal of the instant Criminal Jail Appeal before this Court on merits, provided the sentence awarded to the appellant is reduced to one, which he has already undergone, which is opposed by learned Addl. PG for the State by stating that the offence alleged against the appellant is affecting the society at large.

3. Heard arguments and perused the record.

4. The FIR has been lodged with delay of about 01 year; the appellant is old man of 50 years of the age, said to be sole bread earner of his family, by not pressing disposal of his appeal on merits he has shown remorse as such there is likelihood of his reformation. By considering all these factors as mitigating circumstances, the sentence awarded to the appellant for the above offence is reduced to one which he has already undergone, which includes the sentence which he is likely to undergo on account of his failure to make payment of fine.

5. The instant Criminal Jail Appeal is disposed subject to above modification.

JUDGE