

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Appeal No. 90 of 2023

Appellant: Asif Ahmed through M/s. Habib-ur-Rehman Memon
and Sarmad Qurban, advocates

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

Date of hearing: 24.08.2023
Date of judgment: 24.08.2023

J U D G M E N T

IRSHAD ALI SHAH, J- It is alleged that the appellant with rest of the culprits robbed complainant Shahzad of his cash worth Rs.3100/- by hitting him with something on his head, for that he was booked and reported upon by police. On conclusion of trial, he was convicted u/s. 397 PPC and sentenced to undergo rigorous imprisonment for seven years with benefit of Section 382(b) Cr.P.C by learned XIIth -Additional Sessions Judge Karachi East vide judgment dated 17.05.2022 which he has impugned before this Court by preferring the instant Criminal Appeal.

2. At the very outset, it is stated by learned counsel for the appellant that the appellant inclusive of remission has already undergone 05 years 04 months and 14 days of the sentence, therefore, under instructions he would not press the disposal of the instant Crl. Appeal before this Court on merits, provided the sentence awarded to the appellant is reduced to one which he has already undergone by modifying the penal Section with one under Section 394 PPC, which is opposed by learned Addl. PG for the State by stating that the offence which the appellant has allegedly committed the affecting the society at large.

3. Heard arguments and perused record.

4. The allegation against the appellant is to the extent that he while committing robbery caused hurt to the complainant on his head; such allegation obviously constitutes an offence punishable under Section 394 PPC, therefore, the punishment awarded to the appellant under Section 397 PPC is modified with one under Section 394 PPC; consequently, he for the said offence/penal section is sentenced to undergo rigorous imprisonment for 04 years and to pay fine of Rs.10,000/- and in default whereof to undergo simple imprisonment for 10 days with benefit of Section 382(b) Cr.P.C.

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

JUDGE