

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Appeal No. 63 of 2020

Appellant: Muhammad Waheed through M/s. Tajamul Hussain Lodhi and Habib-ur-Rehman Marwat, advocates

The State: Mr. Muhammad Anwar Mahar, DDPP

Date of hearing: 29.08.2023

Date of judgment: 29.08.2023

J U D G M E N T

IRSHAD ALI SHAH, J- It is the case of prosecution that the appellant subjected Mst. Mahnoor, a young girl aged about 15/16 years, said to be his step daughter, to rape, for that he was booked and reported upon by the police. On conclusion of trial, he was convicted under Section 376(3) PPC and sentenced to undergo imprisonment for life and to pay fine of Rs.20,000/- and in default whereof to undergo simple imprisonment for 01 month with benefit of section 382(b) Cr.P.C by learned IInd-Additional District and Sessions Judge, Karachi Central vide judgment dated 18.01.2020, which is impugned by the appellant before this Court by preferring the instant criminal appeal.

2. At the very outset, it is stated by learned counsel for the appellant that inclusive of remission, the appellant has already undergone 13 years of the sentence, therefore, under instructions he would not press the disposal of the instant Criminal 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, which is not opposed by learned DDPP for the State by stating that Section 376(3) PPC is misapplied for the reason that it was introduced after occurrence of the present incident.

3. Heard arguments and perused the record.

4. The appellant is old man of 54 years of the age, said to be sole bread earner of his family, by not pressing disposal of his appeal on merits, 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 u/s 376(3) PPC is modified with one u/s 376(1) PPC, consequently, the appellant for the said offence is sentenced to undergo rigorous imprisonment for ten years and to pay fine of Rs.10,000/- and in default whereof to undergo simple imprisonment for ten days.

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

JUDGE