

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Jail Appeal No. 100 of 2022

Appellant: Naeem Ahmed through Mr. Gul Faraz
Khattak, advocate

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

Date of hearing: 30.08.2023
Date of judgment: 30.08.2023

J U D G M E N T

IRSHAD ALI SHAH, J- It is the case of prosecution that the appellant subjected Baby Reema, a girl aged 03 years, to torture and rape, for that he and his wife Mst. Kalsoom were booked and reported upon by the police. On conclusion of trial, his wife Mst. Kalsoom was acquitted while he was convicted u/s 376(i) PPC and sentenced to undergo imprisonment for 14 years and to pay fine of Rs.50,000/- and in default whereof to undergo simple imprisonment for 06 months; he was further convicted u/s. 337(A)(i) PPC and sentenced to undergo rigorous imprisonment for 02 years and to pay *Daman* of Rs.10,000/- to the complainant party/victim and in default whereof to undergo simple imprisonment for 01 month. However, he was awarded benefit of section 382(b) Cr.P.C by learned VIIth-Additional District and Sessions Judge/Gender Based Violence Court, Karachi East vide judgment dated 01.02.2022, which is impugned by him before this Court by preferring the instant criminal jail appeal.

2. At the very outset, it is stated by learned counsel for the appellant that he would not press the disposal of the instant Criminal Jail Appeal before this Court on merits, provided the sentence awarded to the appellant u/s 376(i) PPC is reduced to rigorous imprisonment for 10 years and the sentences on both counts are directed to run concurrently with benefit of Section

382(b) Cr.PC, which is opposed by learned Addl. PG for the State by contending that the offence allegedly committed by the appellant is affecting the society at large.

3. Heard arguments and perused the record.

4. The FIR of the incident has been lodged with un-explained delay of about 05 days. The parties are disputed over the custody of the victim. There is no DNA report. Be that as it may, the appellant is 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(i) PPC is reduced to rigorous imprisonment for ten years with fine of Rs.10,000/- and in default whereof to undergo simple imprisonment for one month. Punishment awarded to the appellant u/s 337(A)(i) PPC would remain same. Both the sentences awarded to the appellant, however, would run concurrently with benefit of Section 382(b) Cr.PC.

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

JUDGE