

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Jail Appeal No.184 of 2021

Appellant: Hussain through Mr. Khan Zaman
Khattak, advocate

The State: Mr. Saleem Akhter Buriro, Addl. PG for
the State

Date of hearing: 28.09.2023

Date of judgment: 28.09.2023

J U D G M E N T

IRSHAD ALI SHAH, J- The appellant is alleged to have committed rape with Mst. Mena, young girl aged about 18/19 years, for that he was booked and reported upon by the police. On conclusion of trial, he was convicted u/s. 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 four months with benefit of Section 382(b) Cr.P.C by learned Additional Sessions Judge Sujawal/ Gender based Violence Court Thatta vide judgment dated 13.03.2021, which he has impugned before this Court by way of the instant Criminal Jail Appeal.

2. At the very outset, it is stated by learned counsel for the appellant that under instructions he would not press the disposal of the instant Crl. Jail Appeal before this Court on merits, provided the sentence awarded to the appellant is reduced to its minimum extent which is opposed by learned Addl. PG for the State by contending that the victim is the daughter of the appellant.

3. Heard arguments and perused record.

4. The FIR of the incident has been lodged with considerable delay. As per DNA report, the vaginal swabs of the victim were not found containing male DNA/ semen stain/sperm fraction which favors the appellant. The appellant is of 50 years of the age and he in his statement recorded under Section 342 Cr.PC has pleaded innocence by stating that he has been involved in this case falsely on account of his objection to visit of Babu and Shahid to his house. Be that as it may. The appellant by not pressing the disposal of his appeal on merits has shown remorse and there is likelihood of his reformation. By considering these factors as mitigating circumstances, the sentence awarded to the appellant for the said offence is reduced to rigorous imprisonment for 10 years with fine of Rs.10,000/- and in default in payment whereof he would undergo simple imprisonment for one month with benefit of Section 382(b) Cr.PC.

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

JUDGE