

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Cr. Jail Appeals No.S-22, 36 & 43 of 2023
Cr. Appeal No.S-29 & 34 of 2023

Date of hearings: 27.08.2024.
Date of decision: 27.08.2024.
Appellants: Siddique @ Sadique @ Zaheer Jan and others
through Mian Taj Muhammad Keerio advocate.
Complainant: Aziz-ul-Rehman through Mr. Sajjad Ali Gopang
advocate.
The State: Through Ms. Rameshan Oad, A.P.G.

J U D G M E N T

ZULFIQAR ALI SANGI, J.- The appellants have impugned the judgment dated 28.01.2023 passed by learned Additional Sessions Judge-II, Jamshoro @ Kotri in Sessions Case No.389/2022, crime No.52/2022 U/S 462-B, 462-C, 462-F, 379, 511, 34 PPC, P.S Nooriabad, whereby the appellants were convicted and sentenced as detailed in Point No.2 of the judgment, which is as under:-

I have already discussed the evidence of the prosecution with the point No.01 and concluded that the prosecution has established the guilt of the present accused everyone 1) Siddique @ Sadique @ Zaheer Jan s/o Syed Muhammad @ Muhammad Ali, 2) Zahoor Ahmed s/o Soomar, 3) Sarfraz s/o Habib Gul, 4) Muhammad Shahid s/o Hassan Khan, 5) Muhammad Juman @ Umed Ali s/o Haji Jurial and they are found guilty for the offences punishable u/s 462-B, 462-C, 462-F, 379, 511, 34 P.P.C.

I, therefore, convict the 1) Siddique @ Sadique @ Zaheer Jan s/o Syed Muhammad @ Muhammad Ali, 2) Zahoor Ahmed s/o Soomar, 3) Sarfraz s/o Habib Gul, 4) Muhammad Shahid s/o Hassan Khan, 5) Muhammad Juman @ Umed Ali s/o Haji Jurial u/s 265-H (2) Cr.PC for the offence punishable u/s punishable u/s 462-B, 462-C, 462-F, 379, 511, 34 P.P.C and they are sentenced to suffer imprisonment for seven years and to pay fine of Rs.10,000/-(ten thousand) to each of accused. In case of non-payment of fine amount, the accused shall suffer S.I for one month.

The benefit of section 382-B Cr.P.C is extended to accused. They are produced from Central Prison, Hyderabad, remanded back to custody with conviction slip and warrants to carry out the sentence into execution so awarded to them in accordance with law.

2. The brief facts of the prosecution story are that the complainant Aziz-ul-Rehman Security officer of PARCO Company got lodged FIR with P.S Nooriabad alleging therein that he is posted as Security officer at PARCO/PEPCO Company, its pipeline of petroleum is installed through underground from Karachi to Sheikhpura, same line is being crossed from the jurisdiction of P.S Nooriabad. On 10-09-2022 the complainant along with Supervisor Abdul Qayoom and Supervisor Niaz Ahmed were patrolling in vehicle Vego No.CY-7396, during patrolling at about 2240 hours when they reached at PARCO kilometer 41+300 at the distance of 200-feet, where they saw under the headlight of vehicle that one white colour Alto Car with motorcycle were parked in the bushes while some persons were digging the earth near the pipeline, then the complainant party stopped their vehicle and turned off headlight at about 2245 called 15-Madadgar for taking help of Police, then at about 2309 hours ASI Muhammad Ali Soomro of P.S Nooriabad contacted with them through phone and at about 0010 hours came along with his staff in Government mobile, then the complainant party and Police Party encircled the accused and apprehended 5-persons while 3-persons escaped away by taking benefit of darkness. Thereafter, the Police party asked the names, parentage and residency from the accused persons and also conducted their body search, who disclosed their names as everyone 1) Muhammad Siddique @ Sadique @ Zaheer Jan s/o Syed Muhammad @ Muhammad Ali by caste Sindu Jatt r/o originally Sadiquabad at present Gariabad Saleh Muhammad village Landi Malir Karachi, from his body search, one simple mobile phone vego tell, one NIC and one note of Rs.1000/- were recovered. 2) Zahoor Ahmed s/o Soomar by caste Mahar r/o originally Sadiqabad at present Kathore Karachi, from his body search, one NIC and one note of Rs.500/- were recovered. 3) Sarfraz s/o Habib Gul by caste Yousif Zai Pathan r/o originally Faisalabad at present Kathore Karachi, from his body search, one vego tell mobile simple keypad, his NIC and 6-notes of Rs.100/100 total Rs.600/- were recovered. 4) Muhammad Shahid s/o Hussain Khan by caste Mevo r/o originally Kasoor at present Kathore Karachi, from his search, one vego tell mobile simple, his NIC and one note of Rs.500/- and three notes of Rs.100/100 total Rs.800/- were recovered. 5) Muhammad Juman @ Umed Ali s/o Haji Jurial Burfat r/o originally Sari Bula Khan at present Kotri Phatak, from his personal search, one vego tell simple mobile phone, four notes of Rs.100/100 total Rs.400/-. Thereafter, car and motorcycle were taken into custody and inquired

from the place of incident and found dig at PARCO 41+300 kilometer and pipeline was exposed, from the dig found one iron clip, one belcha, one gainti and one waholi, which were also taken into possession by the Police, accused Muhammad Siddique @ Sadique @ Zaheer Khan is also proclaimed offender in crime No.48/2020, crime No.37/2021 of P.S Nooriabad and also required in crime No.41/2022, accused everyone Zahoor Ahmed Mahar, Sarfraz Yousif Zai Pathan, Muhammad Shahid Mevo, Muhammad Juman @ Umed Ali Burfat also required in crime No.41/2022 of P.S Nooriabad. Such mashirnama of arrest and recovery was prepared with the signatures of supervisor Abdul Qayoom and supervisor Niaz Ahmed under the headlight of vehicle. Thereafter, arrested accused and recovered property were brought at P.S, where the accused were kept into lock-up and got lodged FIR against the accused persons.

3. After usual investigation, the trial was commenced in which prosecution examined 04 witnesses, who produced all relevant documents and items. Thereafter statements of accused were recorded and after hearing the parties the learned trial court convicted and sentenced the appellants as sated above.

4. Learned counsel for the appellants after arguing the case has submitted for taking a lenient view stating that appellants are the first offenders and are the only bread earners for their family that they would not press the appeals on merits if the sentence is reduced to the period already undergone by them.

5. Learned Assistant PG and counsel for complainant have recorded no objection to this proposal.

6. I have heard the parties and perused material available on record. I am of the view that the conviction of the appellants is based on cogent reasons. As per jail roll called from the Senior Superintendent /Officer Incharge Central Prison & Correctional Facility Hyderabad appellants have served out sentence of 01 year 10 months and 20 days and earned remission of 03 years 05 months and 07 days **in total they have served sentence of 05 years 03 months and 27 days** which shows that the appellants have been sufficiently punished. The appellants are first offenders. No past criminal history against them is placed on record before the trial Court nor this Court.

7. Consequently, the conviction is maintained, however, the sentences awarded to the appellants by the Trial Court is reduced to one which the appellants have already undergone including the fine. The order passed in respect of property shall remain the same. They shall be released forth with if not required in any other custody case.

8. The appeals in hand are disposed of in the terms as stated above.

JUDGE

Ali Haider