

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Special Criminal Appeal No.D-217 of 2019

Present;

Irshad Ali Shah,J
Zulfiqar Ali Sangi,J

Appellant: Allah Noor son of Dur Muhammad by caste Rind Baloch (Confined at Central Prison Sukkur, **through** Mr. Abdul Haseeb Khuhro, advocate.

The State: **Through** Mr. Muhammad Farooq Ali Jatoi, Special Prosecutor ANF.

Date of hearing 17-04-2024.

Date of decision 17-04-2024.

J U D G M E N T

IRSHAD ALI SHAH, J. It is the case of the prosecution that the appellant and co-accused Nisar Ahmed were found in possession/transporting 568 kilograms of the charas through their Truck, for that the present case was registered. On conclusion of trial, they were convicted u/s 9 (c) of CNS Act, 1997 and sentenced to undergo Imprisonment for life and to pay fine of Rs.100,000/-, (One lac) each and in default in payment whereof to undergo simple imprisonment for one year, with benefit of section 382(b) Cr.P.C by learned IIIrd Additional Sessions Judge (MCTC-II)/ Special Judge (CNS), Sukkur vide judgment dated 11-09-2019, which they have impugned before this Court by preferring two separate Special Crl. Appeals; one which was preferred by Nisar Ahmed has been abated to on account of his death vide order dated 16-08-2022.

2. At the very outset, it is stated by learned counsel for the appellant that in collusive of the remission, the appellant has already remained in jail for more than 20 years; therefore, under instructions he would not

press the disposal of instant Special CrI. Appeal before this Court on merits, provided the sentence which the appellant is likely to undergo on account of his failure to make payment of fine is reduced to considerable extent, which is not opposed by learned Special Prosecutor ANF Sukkur.

3. Heard arguments and perused the record.

4. The appellant as per jail role is old man of 60 years of the age; no criminal record against him has been brought on file; he is said to be sole bread earner of his family and by not pressing the disposal of his appeal on merits, he has shown remorse, thus there is likelihood of his reformation. By considering all these factors as mitigating circumstances, the simple imprisonment for one year which the appellant is likely to undergo on account of his failure to make payment of fine is reduced to simple imprisonment for one month with benefit of section 382(b) Cr.P.C.

5. The instant Special CrI. Appeal subject to above modification is dismissed as not pressed.

Judge

Judge