

# IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Jail Appeal No. 636 of 2022

Appellant: Muhammad Sami through Mr. Habib-ur-Rehman Jiskani, advocate

The State: Ms. Rubina Qadir, Deputy Prosecutor General for the State

Date of hearing: 22.04.2024

Date of judgment: 22.04.2024

## J U D G M E N T

**IRSHAD ALI SHAH, J-** It is alleged that the appellant with rest of the culprits during course of robbery caused but blow to complainant Syed Zafar Shah on his head, for that he was booked and reported upon by the police. On conclusion of trial, he was convicted u/s. 397 PPC and sentenced to undergo rigorous imprisonment for 07 years, with benefit of Section 382(b) Cr.P.C by learned XIIth-Additional Sessions Judge, Karachi East vide judgment dated 13.08.2022, 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 appellants is reduced to rigorous imprisonment for three years with fine by modifying the penal Section with one under Section 392 PPC, which obviously is made out, which is not opposed by learned Deputy Prosecutor General for the State.

3. Heard arguments and perused record.

4. Apparently, no fire shot was made by the appellant at the time of alleged robbery, which prima facie suggests that the appellant was having no intention to use the crime weapon; such aspect of the case constitutes an offence punishable u/s 392 PPC, therefore, the conviction awarded to the appellant for offence punishable under section 397 PPC is modified with Section 392 PPC; consequently, he for the said penal section is sentenced to undergo rigorous imprisonment for 03 years with fine of Rs.5,000/- and in default in payment whereof to undergo simple imprisonment for one month with benefit of Section 382(b) Cr.P.C.

5. The instant Crl. Jail Appeal subject to above modification is dismissed as not pressed.

JUDGE