

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Appeal No. 483 of 2023

Appellant: Muhammad Mohsin through Mr. Muhammad Hanif Noonari, advocate

The State: Through Ms. Rubina Qadir, DPG 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 by stripping clothes of PW Mst. Nida Nawazish Ali caused injuries to her with some hard blunt substance. On conclusion of trial, he was convicted under section 337-A(i) PPC and sentenced to undergo rigorous imprisonment for one year as *Tazir* and to pay *Daman* of Rs.50000/- to the victim and in default in payment whereof to undergo simple imprisonment for 03 years; he was further convicted under section 337-A(vi) PPC and sentenced to undergo rigorous imprisonment for 03 years as *Tazir* and to pay *Daman* of Rs.100,000/- to the victim and in default in payment whereof to undergo simple imprisonment for 06 months; both the sentences were directed to run concurrently with benefit of Section 382(b) Cr.P.C by learned IIIrd-Additional Sessions Judge, Karachi South, vide judgment dated 31.08.2023, which is impugned by the appellant before this Court by preferring the instant Criminal Appeal.

2. At the very outset, it is stated by learned counsel for the appellant that inclusive of remission the appellant has already undergone 03 years, 03 months and 15 days of the sentence, therefore under instructions he would not press disposal of instant Criminal Appeal before this Court on

merits, provided the sentence awarded to the appellant on account of his failure to make payment of *Daman* is reduced to considerable extent which is not opposed by learned Deputy PG for the State.

3. Heard arguments and perused the record.

4. The FIR of the incident has been lodged with delay of about 01 day; the appellant has already been acquitted impliedly even by learned trial Court for offence punishable under section 354-A PPC by making a conclusion that no case for such allegation is made out; he is said to be sole bread earner of his family and by not pressing disposal of his appeal before this court on merits has shown remorse, thus there is likelihood of his reformation. By considering all these factors as mitigating circumstances, the sentence which the appellant is likely to undergo on account of his failure to make payment of *Daman* is reduced to one month and two months respectively for each count, with benefit of Section 382(b) Cr.PC.

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

JUDGE