

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Criminal Appeal No. S- 81 of 2021.

(Ghulam Akbar Buriro Vs. The State)

DATEORDER WITH SIGNATURE OF HON'BLE JUDGE

1. For Orders on office objection.
2. For Orders on MA No. 5582/2021 (426 Cr.P.C)
3. For hearing of main case.

Date of hearing and order 29-04-2024.

Nemo for appellant.

Mr. Dareshani Ali Hyder "Ada" Deputy Attorney General.

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ORDER

Adnan-ul-Karim Memon J:- The appellant was convicted of an offence under section 409, PPC read with section 5(2)Act-II of 1947, registered at PS FIA Sukkur in Special Case No. 11 of 2017 by the Special Judge Central Hyderabad ("Trial Court"). He was sentenced to suffer R.I. for three years imprisonment along with a fine of rupees 893133-, defaulting which he was to serve additional simple imprisonment for six (06) months vide judgment dated 16.9.2021 ("impugned judgment"). He was also extended the benefit of Section 382-B, Cr.P.C.

The facts leading to the instant case are that consequent upon preliminary inquiry and after necessary permission from the competent authority on the complaint received from Lutfullah Shaikh Regional Manager, Utility Store Corporation Shikarpur Region alleging therein that accused Ghulam Akbar s/o Ali Nawaz Buriro store in-charge at Utility Store Dastageer Colony City Jacobabad during the period from 28.09.2015 to 10.01.2016

embezzled corporation funds/stocks amounting to Rs. 974271/- out of which an amount of Rs 81138/-has been recovered from him and still an amount of Rs.893133/-is outstanding against him and caused undue loss to the government exchequer. The investigation was entrusted to Sub-Inspector Muhammad Ali Sawand of FIA Crime Circle Sukkur who during the investigation secured the record/documents, arrested the accused recorded statements of witnesses, and after completing the investigation submitted the challan against the accused. After supplying necessary documents vide Ex.1, a formal charge was framed at Ex.2 to which the accused pleaded not guilty and claimed to be tried as per his plea at Ex.3.

At trial, the prosecution has examined Pw. 1 complainant Lutuf ullah at Ex 5 who produced a statement of accounts at Ex 5/A, Indemnity bond at Ex 5/B, his complaint at Ex.5/C, posting and transfer orders of accused at Ex 5/D&E Pw 2 Akhter Hussain Regional Accounts Officer at Ex.6 who produced seizure memo of documents seized by the IO containing price list, Debit & Credit Notes, amendment list of price, deposit slips, ICL, handing & taking over, shortage register and store audit proforma at Ex. 6/A. Pw.3 Ghulam Murtaza at Ex. 7, Pw 4 Muhammad Asif at Ex 8, Pw 5 Imran Ali at Ex.11 Pw.6 Mehtab Hussain at Ex 12, Pw.7 Muhammad Ali Sawand at Ex.14 who produced FIR at Ex.14/A, memo approval of competent authority at Ex. 14/C of arrest at Ex.14/B and the Prosecution gave up the Pws. Ubaidullah, Jan Muhammad, and Ahmed Ali Sawand vide statements at Ex. 9,13 & 16.

The statement of the accused under section 342 Cr.P.C. has been recorded at Ex. 18 who denied the prosecution case and attributed his false implication. He has not examined himself on oath nor produced any defense witness.

At the outset the learned DAG, states that as per jail roll, the appellant has served out the sentence and was released from prison this factum has been disclosed in the order dated 16-06-2023 as such this appeal has served out its purpose and the same may be disposed of, however, the appellant may be set at liberty to put his appearance as when he intends to resurrect his appeal to be decided on merits. It appears from the record that after filing of this CrI. Appeal, the counsel for the appellant failed to put his appearance w.e.f 19-09-2022 and several efforts were made to serve the notice upon the appellant, who failed to put his appearance to assist this Court, as such this Court is left with not option but to accede the request of the learned Deputy Attorney General, which seems to be reasonable and acceded to accordingly.

Office to fix this matter as and when the appellant files an application for reopening of the appeal and decision thereon on its merit.

Without touching the merits of the case, this appeal stands disposed of in the above terms.

JUDGE

