

IN THE HIGH COURT OF SINDH CIRCUIT COURT, LARKANA.

Cr. Appeal No. D- 38 of 2012.

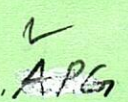
Present:

Mr.Justice Naimatullah Phulpoto-J

Mr.Justice Sallahuddin Panhwar-J

JUDGMENT.

Appellant Peer Bux Chandio through Mr. Faiz
Mohammad Larik, advocate.

Respondent The State through Mr.Imtiaz Ali Jalbani, 

Date of hearing: 16.04.2014.

Date of judgment:

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SALLAHUDDIN PANHWAR, J.:-Through instant appeal, appellant has assailed judgment dated 31st March, 2012 passed in Special Case No.28 of 2011 (re: State vs. Peer Bux) by learned Sessions Judge/Special Court (CNS) Jacobabad whereby appellant was convicted U/S 9(c) of CNS Act 1997 and sentenced to suffer 8 years; with penal servitude and pay fine of Rs.50,000/= . Benefit of section 382-b Cr.P.C was extended to the appellant.

2. Precisely, relevant facts are that on 31.10.2011 complainant alongwith his subordinate staff apprehended appellant at old railway chowk & Babu Muhalla Jacobabad; on his personal search 1200 grams charas was recovered, out of which 100 grams were separated for chemical examination. Accused and property were brought at police station, accordingly applicant was booked in

case of narcotics substances, after usual investigation, he was sent up for trial.

3. Learned trial Court indicted the appellant wherein appellant pleaded not guilty and claimed for trial. In order to substantiate charge prosecution examined complainant Inspector Imdad Hussain, who produced attested copy of roznamcha entry, mashirnama of arrest and recovery, FIR and Chemical Examiner's report and P.W/mashir ED Mohammad Hashim.

4. Statement of appellant was recorded U/S 342 Cr.P.C wherein he professed his innocence with further submission that he is labourer and has been implicated in false case.

5. Learned counsel for the appellant, after arguing at length, submitted that he would not press the appeal on merits if the sentence awarded to the appellant would be reduced. In view of sentencing policy laid down in the case of Ghulam Murtaza v. The State (PLD 2009 Lahore 362); upheld by honourable Apex Court in the case of Ameer Zeb v. The State (PLD 2012 S.C 380).

6. Learned A.P.G does not controvert above proposition.

7. While scanning the evidence brought on record, admittedly recovery of charas in the shape of two *patties*, having weight of 1200 grams was effected from the appellant; 20 grams from each *patthi* was separated and sent to Chemical Examiner. After full dressed trial appellant was sentenced for eight years, which appears harsh and against the quantum of sentence provided in Ghulam Murtaza case (supra) according to which the maximum sentence prescribed is as under:





Charas	Exceeding kilogram and upto kilograms	1 2	Imprisonment: RI for 4 years 6 months and Fine: Rs.20,000 or in default SI for 5 months.
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8. Thus, on this touchstone, while dismissing the appeal we modify the impugned judgment and reduce the sentence from 8 years to 4 years six months and fine from Rs.50,000/= to Rs.20,000/=. Benefit of section 382-b Cr.P.C will remain intact.

9. With above modification, instant appeal is dismissed.

JUDGE

JUDGE

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