

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD**

Criminal Appeal No.S-181 of 2020

Appellant: Amir son of Ghulam Rabbani Jamali, through
Mr. Abdul Hameed Jamali,
Advocate.

Respondent: The State through Mr. Fayaz Hussain Sabki,
Assistant P.G.

Date of hearing : 08.04.2022
Date of judgment : 08.04.2022.

J U D G M E N T

SALAHUDDIN PANHWAR, J,- Through the captioned criminal appeal, Appellant has impugned the judgment dated 05.11.2020 passed by learned Vth Additional Sessions Judge / Model Criminal Trial Court, Shaheed Benazirabad, for offence under Section 25 of Sindh Arms Act, 2013, whereby the learned Judge convicted and sentenced the appellant to suffer R.I for 5 years, besides to pay fine of Rs.30,000/- , failure whereof, to suffer S.I for 06 months more with benefit of Section 382-B Cr.P.C.

2. At the very outset, the learned Counsel for the appellant contends that he would be satisfied and shall not press this appeal on merits, if the sentence awarded to the appellant i.e. R.I for 05 years is reduced to one already undergone by him including the conviction in lieu of fine. He further submits that appellant is poor person and is surviving bread earner of his family, hence, prayed for lenient view.

3. Learned A.P.G has conceded to the proposition of appellant's Counsel that sentence awarded to the appellant may be reduced to already undergone.

4. *Quantum of punishment* is not only discretion of the Court, which has to be exercised while considering the circumstances of the case, but also is an independent aspect of Criminal Administration of Justice which, too, requires to be done keeping the concept of *punishment* in view.

5. Since appellant is not pressing captioned appeal on merits but seeking reduction of sentence, therefore, I would examine the legality of such plea. Conceptually, punishment to an accused is awarded on the concept of retribution, deterrence or reformation so as to bring peace which could only be achieved either by keeping evils away (criminals inside jail) or strengthening the society by reforming the guilty. There are certain offences, the punishment whereof is with phrase “**not less than**” while there are other which are with phrase “**may extend upto**”. Thus, it is quite obvious and clear that the law itself has categorized the offences in *two* categories regarding quantum of punishment. For one category the Courts are empowered to award *any* sentence while in *other* category the discretion has been limited by use of the phrase ‘**not less than**’. Such difference itself is indicative that the Courts have to appreciate certain circumstances before setting quantum of punishment in *first* category which appear to be dealing with those offences, the guilty whereof may be given an opportunity of “**reformation**” by awarding less punishment which how low-soever, may be, will be legal. The concept of reformation should be given much weight because conviction normally does not punish the guilty only but whole of his family/dependents too. A reformed person will not only be a better brick for society but may also be helpful for future by properly raising his dependents.

6. Since the appellant in main case bearing Crime No.177 of 2019 registered at P.S B-Section Nawabshah for offences under Sections 302, 114, 34 PPC has been acquitted by way of compromise entered into between the parties, therefore, I keeping in view, the phrase “**may extend upto**” and the circumstances explained herein above and also by taking lenient view against appellant as he is only bread earner of his family, hold that the appellant has made out his case where he deserves leniency being proposed by the learned Counsel. Hence, I find it appropriate to reduce the sentence of the appellant from five (05) years to the one already undergone.

7. In view of above, the appeal is dismissed and conviction and sentence awarded to the appellant by the learned trial Court vide judgment dated 05.11.2020 is maintained, however, reduce the sentence awarded to the appellant to one already undergone by him. So far the conviction period in lieu of non-payment of fine of Rs.30,000/- is concerned, the same shall also include into the sentence already undergone by him. Accordingly, appellant shall be released forthwith if not required in any other custody case. The appeal is disposed of accordingly.

JUDGE

Shahid