

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Appeal No.D-74 of 2021  
Criminal Jail Appeal No.D-76 of 2021  
Confirmation Case No.15 of 2021  
Criminal Appeal No.S-101 of 2021  
Criminal Appeal No.S-105 of 2021  
Criminal Jail Appeal No.S-108 of 2021

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DATE	ORDER WITH SIGNATURE OF JUDGE
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16.08.2022

Mr. Ghulam Shabbir Babar advocate for appellants.

Mr. Suhbat Ali Lund advocate for complainant.

Mr. Nazar Muhammad Memon, Addl.P.G Sindh.

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Heard learned Counsel for the parties.

For reasons to be recorded later on, Criminal Appeal No.D-74 of 2021, Criminal Jail Appeal No.D-76 of 2021, Criminal Appeal No.S-101 of 2021, Criminal Appeal No.S-105 of 2021, Criminal Jail Appeal No.S-108 of 2021 are partly allowed in the terms whereby appellant Haji Muhammad @ Muhammad Khan son of Jaro Khan Meerjat is hereby acquitted of the charge in Sessions Case No.69/2021, Crime No.214/2020 of P.S A-Section Dadu and his conviction and sentence are set-aside. He shall be released forthwith if not required in any other custody case. And partly dismissed in the terms whereby death penalty of appellant Rashid Ali son of Haji Muhammad @ Muhammad Khan awarded to him vide impugned judgment is converted into imprisonment for life with benefit u/s 382-B Cr.P.C duly extended to him. The order of compensation u/s 544-A Cr.P.C shall remain intact.

In view of the above, Death References No.15 of 2021 is replied in negative and is accordingly disposed of.

Mr. Wazeer Hussain, Advocate for appellants.

Mr. Nazar Muhammad Memon, Addl.P.G.

Ms. Shazia Paras Kandhro, Advocate for Mst. Moomal (mother of deceased).

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Heard learned Counsel for the parties.

For the reasons to follow Criminal Appeal No.S-53/2013 is allowed, conviction and sentence awarded to the appellants vide judgment dated 09.02.2013, passed by learned 1st Additional Sessions Judge, Shaheed Benazirabad in Sessions Case

No.159/2002 emanating from Crime No.34/2002 of P.S Kazi Ahmed under section 302, 34 PPC are set aside and the appellants are acquitted of the charge. The appellants shall be released forthwith if not required in any other custody case.

Accordingly, Criminal Jail Appeal No.S-50 of 2013 filed by the same appellants against the same judgment is disposed of in the above terms along with pending applications.

Heard learned Counsel for the parties.

For the reasons to follow, instant appeal is allowed, conviction and sentence awarded to the appellant vide judgment dated 18.04.2019, passed by learned Special Judge (Narcotics), Shaheed Benazirabad in Special Narcotic Case No.817 of 2017 emanating from Crime No.206/2017 of P.S Kazi Ahmed under section 9(c) of Control of Narcotics Substances Act, 1997 are set aside and the appellant is acquitted of the charge. Appellant shall be released forthwith if not required in any other custody case.

Heard learned Counsel for the parties.

For the reasons to follow this appeal is allowed, conviction and sentence awarded to the appellant vide judgment dated 20.02.2016 passed by learned Sessions / Special Judge, CNSA, Mirpurkhas in Crime No.05/2013 of P.S Excise (DIB) Mirpurkhas under section 9(c) Control of Narcotics Substances Act, 1997, are set aside and the appellant is acquitted of the charge. The appellant shall be released forthwith if not required in any other case.

..... For the reasons to follow, this appeal is dismissed on merits, however, conviction and sentence of the appellant which is imprisonment for five years and six months and fine of Rs.25,000/- and in default thereof to suffer S.I for five months and fifteen days under section 9(c) Control of Narcotics Substances Act, 1997, is altered and reduced to the period already undergone by him, which shall include the period the appellant was to serve in lieu of fine.

..... Appellant Abdul Qudoos has been convicted for the offence under section 9(c) Control of Narcotics Substances Act, 1997, and sentenced to R.I for 06 years and 06 months and he has also been imposed fine of Rs.30,000/-, in default of fine he will suffer 06 months S.I. He is not represented by any Counsel, therefore, Mr. Ghulam AsgharMirbahar, Advocate, is appointed Counsel for

appellant on State expenses, his fee is fixed at Rs.20,000/- which shall be paid to him on final disposal of the appeal.

Today, this appeal is fixed for regular hearing. We have gone through the evidence available in R & Ps of this case with the assistance of learned Counsel for the parties and have heard them. .... For the reasons to follow, conviction and sentence of the appellant from R.I for 06 years and 06 months and fine of Rs.30,000/- under section 9(c) Control of Narcotics Substances Act, 1997, is altered and reduced to the conviction and sentence under section 9(b) C.N.S Act, 1997 for the period already undergone by him, which shall include the period the appellant has to suffer in lieu of fine. The appellant shall be released forthwith if not required in any other case.

Appeal is dismissed in above terms.

.... For the reasons to follow, this appeal is dismissed on merits, however, conviction and sentence of the appellant which is imprisonment for five years and six months and fine of Rs.25,000/- and in default thereof to suffer S.I for five months and fifteen days under section 9(c) Control of Narcotics Substances Act, 1997, is altered and reduced to the period already undergone by him, which shall include the period the appellant was to serve in lieu of fine.

..... This is a bunch of two connected appeals filed against same impugned judgment dated 30.06.2009 passed by learned 2nd Additional Sessions Judge, Badin in Sessions Case No.207 of 2005. In Criminal Jail Appeal No.D-108 of 2009 on behalf of appellant Ramzan, Ms. Nasira Shaikh had been appearing but for the last many dates she has been called absent, therefore, Mr. Mashooque Ali Bhurgri, who is appearing on behalf of co-appellant Yousuf, is appointed as advocate for pauper appellant namely Ramzan and his fee is fixed at Rs.30,000/- which shall be paid to him by the office of Prosecutor General Sindh after disposal of appeals.

We have heard the learned counsel for the appellant as well as learned A.P.G. The complainant has chosen to remain absent.

For reasons to follow, Criminal Jail Appeal No.S-108/2009 is allowed, conviction and sentence awarded to appellant Ramzan is set aside and he is acquitted of the charge. He shall be released forthwith if not required in any other custody case. However, Criminal Jail Appeal No.D-101/2009 filed by appellant Yousuf is dismissed but his death penalty is converted into life imprisonment

with benefit of section 382-B PPC duly extended to him. Resultantly, the death reference No.D-03/2009 for confirmation of death sentence of appellant Yousuf is replied in negative and is accordingly disposed of.

.....For reasons to be recorded later on, the instant appeals to the extent of appellant Ali Nawaz are hereby allowed, conviction and sentence of death awarded to him vide impugned judgment dated 21.02.2012 is set aside and he is acquitted of the charge. He shall be released forthwith if not required in any other custody case. However, the appeals to the extent of appellant Hassan alias Ali Hassan are disposed of in the terms whereby conviction and sentence of death awarded to him is also set aside and the case is remanded to the trial court to record statement of accused Hassan alias Ali Hassan u/s 342, Cr.P.C afresh by putting him all the incriminating pieces of evidence which have been deposed against him by the prosecution witnesses for seeking his explanation thereto and then after affording an opportunity of hearing to both the parties decide the case within a period of one month thereof i.e. statement u/s 342, Cr.P.C.

Accordingly, both Criminal Appeals No.D-55/2012 and Criminal Jail Appeal No.D-57/2012 filed by both the appellants against one and same judgment are disposed of in the above terms. In the light of above, Death References No.03 and 04 of 2012 for confirmation of death sentence to appellants are replied in negative and are accordingly disposed of.

JUDGE

JUDGE