

IN THE HIGH COURT OF SINDH AT KARACHIPresent:*Mr. Justice Mohammad Karim Khan Agha*CRL. APPEAL NO.239 of 2022

Appellant: Kamran through Mr. Muhammad Kamran Mirza, Advocate.

Respondent: The State through Mr. Muhammad Iqbal Awan, Addl. Prosecutor General, Sindh.

Date of Hearing: 21.11.2024

Date of Announcement: 28.11.2024

J U D G M E N T

Mohammad Karim Khan Agha, J: Appellant Kamran was tried in the Court of Xth Additional Sessions Judge Karachi (East) in Sessions Case No. 1022 of 2018 in respect of Crime No. 110/2018 registered under Section 23(i)-A of Sindh Arms Act, 2013 at P.S. Saudabad, Karachi and after a full-fledged trial vide judgment dated 02.04.2022 he was convicted under section 265-H(ii) Cr.PC and sentenced to undergo R.I for four years with fine of Rs.5000/- and in default of payment whereof he shall further undergo simple imprisonment of 10 days. The benefit of section 382-B Cr.P.C. was extended to the appellant.

2. The brief facts of the case as per FIR lodged by the complainant ASI Muhammad Khan at PS Saudabad, Karachi against the accused Kamran son of Muhammad Akram in reference of crime No. 109 of 2018 under section 392, 34 PPC are such that at the time of his arrest on 24.06.2018 at about 2045 hours, inside shop Rafi & Sons, Plot No. C-43/11, Begum Khursheed Road, Tanki Market, Malir, Karachi, he recovered one unlicensed pistol 30 bore without number loaded magazine containing four live bullets from the possession of the accused Kamran. The accused failed to produce arms' license, the act of accused person fell under section 23(1)(A) Sindh Arms Act, hence the instant FIR was registered.

3. After usual investigation the matter was challaned and the appellant was sent up to face trial. He pleaded not guilty and claimed his trial.

4. In order to prove its case, the prosecution examined 4-PWs and exhibited various items and other documents. The appellant recorded his statement under Section 342 Cr.P.C. whereby he claimed that he was innocent. However, he did not give evidence on oath or call any witness in support of his defence.
5. After appreciating the evidence on record, the learned trial court convicted and sentenced the appellant as set out earlier in this judgment and hence, the appellant has filed this appeal against his conviction and sentence.
6. I have heard learned counsel for the appellant, learned Additional Prosecutor General Sindh and perused the record with their able assistance.
7. At the outset it is to be noted that this is an off shoot case of crime No. 109 of 2018 under section 394/ 34 PPC whereby the appellant has already been convicted and sentenced for the offence of robbery vide judgment of even date whereby during the course of the robbery the appellant was found to have an unlicensed firearm in his possession when he was apprehended on the spot and hence the separate FIR under section 23(1)(A) Sindh Arms Act was lodged against him in respect of this case.
8. The 4 PW's all of whose evidence I find to be trust worthy, reliable and confidence inspiring and whose evidence I believe out of whom two were eye witnesses have fully implicated the appellant in this case.
9. PW 1 Shahid Bashir who was an injured eye witness as proven by medical evidence who was the manager of the shop which was robbed by the appellant and his co-accused gave evidence that after the robbery the appellant was over powered by members of the public who then started to beat him before his arrest by the police on the spot. He witnessed the appellant's arrest and the recovery of a pistol from him by PW 2 Muhammed Khan who was the first responder from the side of the police and rescued the appellant from the crowd which was beating him. PW 1 Shahid Bashir was also the mashir of the memo of arrest and recovery of the pistol which was unlicensed. PW 3 Muhammed Yousaf corroborated the evidence of PW 1 Shahid Bashir in all material respects and in particular the arrest and recovery of the unlicensed pistol on the spot by PW 2 Muhammed Khan.
10. PW 2 Muhammed Khan in his evidence stated that he reached the shop after the robbery and found the public beating the appellant. He rescued the appellant and on his personal search of the appellant found an unlicensed

pistol which he sealed on the spot and prepared the memo of arrest and recovery which was signed by mashirs PW 1 Shahid Bashir and PW 3 Muhammed Yousaf as mentioned above.

11. PW 4 Basharat Ali who was the IO of the case sent the recovered pistol from the appellant for an FSL report which was returned in the positive. The appellant was not able to produce any license for the pistol which was recovered from him.

12. Thus, based on the above discussion, I have no doubt that the prosecution has proved its case against the appellant beyond a reasonable doubt as per the charge and dismiss his appeal.

KAF
JUDGE
28/11/24.

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Mohammad Karim Khan Agha

CRL. APPEAL NO.426 of 2022

Appellant: Ateeq-ur-Rehman son of Abdul Rehman
through Mr. Zuhoor-ul-Islam, Advocate.

Respondent: The State through Mr. Muhammad Iqbal
Awan, Addl. Prosecutor General, Sindh.

Date of Hearing: 21.11.2024

Date of Announcement: 28.11.2024

JUDGMENT

Mohammad Karim Khan Agha, J: Appellant Ateeq-ur-Rehman was tried in the Court of Xth Additional Sessions Judge Karachi (East) in Sessions Case No. 1023 of 2018 in respect of Crime No. 111/2018 registered under Section 23(i)-A of Sindh Arms Act, 2013 at P.S. Saudabad, Karachi and after a full-fledged trial vide judgment dated 02.04.2022 he was convicted under section 265-H(ii) Cr.PC and sentenced to undergo R.I for four years with fine of Rs.5000/- and in default of payment whereof he shall further undergo simple imprisonment for 10 days. The benefit of section 382-B Cr.P.C. was extended to the appellant.

2. The brief facts of the case as per FIR lodged by the complainant ASI Muhammad Khan at PS Saudabad, Karachi against the accused Ateeq-ur-Rehman son of Abdul Rehman in reference of crime No. 109 of 2018 under section 392, 34 PPC are such that at the time of his arrest on 24.06.2018 at about 2045 hours, inside shop Rafi & Sons, Plot No. C-43/11, Begum Khursheed Road, Tanki Market, Malir, Karachi, he recovered one unlicensed pistol 30 bore without number loaded magazine containing four live bullets from the possession of the accused Ateeq-ur-Rehman. The accused failed to produce arms' license, the act of accused person fell under section 23(i)(A) Sindh Arms Act, hence the instant FIR was registered.

3. After usual investigation the matter was challaned and the appellant was sent up to face trial. He pleaded not guilty and claimed his trial.

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4. In order to prove its case, the prosecution examined 4-PWs and exhibited various items and other documents. The appellant recorded his statement under Section 342 Cr.P.C. whereby he claimed that he was innocent. However, he did not give evidence on oath or call any witness in support of his defence.

5. After appreciating the evidence on record, the learned trial court convicted and sentenced the appellant as set out earlier and hence, the appellant has filed this appeal against his conviction and sentence.

6. I have heard learned counsel for the appellant, learned Additional Prosecutor General Sindh and perused the record with their able assistance.

7. At the outset it is to be noted that this is an off shoot case of crime No. 109 of 2018 under section 394/ 34 PPC whereby the appellant has already been convicted and sentenced for the offence of robbery vide judgment of even date whereby during the course of the robbery the appellant was found to have an unlicensed firearm in his possession when he was apprehended on the spot and hence the separate FIR under section 23(1)(A) Sindh Arms Act was lodged against him in respect of this case.

8. The 4 PW's all of whom were natural and independent witnesses who had no reason to falsely implicate the appellant in this case whose evidence I find to be trust worthy, reliable and confidence inspiring and whose evidence I believe out of whom two were eye witnesses have fully implicated the appellant in this case.

9. PW 1 Shahid Bashir who was an injured eye witness as proven by medical evidence who was the manager of the shop which was robbed by the appellant and his co-accused gave evidence that after the robbery the appellant was over powered by members of the public who then started to beat him before his arrest by the police on the spot. He witnessed the appellant's arrest and the recovery of a pistol from him by PW 2 Muhammed Khan who was the first responder from the side of the police and rescued the appellant from the crowd which was beating him. PW 1 Shahid Bashir was also the mashir of the memo of arrest and recovery of the pistol which was unlicensed. PW 3 Muhammed Yousaf corroborated the evidence of PW 1 Shahid Bashir in all material respects and in particular the arrest and recovery of the unlicensed pistol on the spot by PW 2 Muhammed Khan.

10. PW 2 Muhammed Khan in his evidence stated that he reached the shop after the robbery and found the public beating the appellant. He rescued the appellant and on his personal search of the appellant found an unlicensed pistol which he sealed on the spot and prepared the memo of arrest and recovery which was signed by mashirs PW 1 Shahid Bashir and PW 3 Muhammed Yousaf as mentioned above.

11. PW 4 Basharat Ali who was the IO of the case sent the recovered pistol from the appellant for an FSL report which was returned in the positive. The appellant was not able to produce any license for the pistol which was recovered from him.

12. Thus, based on the above discussion, I have no doubt that the prosecution has proved its case against the appellant beyond a reasonable doubt as per the charge and dismiss his appeal.