

IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Zulfiqar Ali Sangi

SPL. CR. A.T. APPEAL NO.150 OF 2021

Appellant	Muhammad Ghazi s/o. Muhammad Ibrahim Qureshi through Mr. Muhammad Asad Ashfaq, Advocate.
Respondent	The State through Mr. Muhammad Iqbal Awan, Addl. Prosecutor General Sindh.
Date of Judgment	07.11.2022

JUDGMENT

Mohammad Karim Khan Agha, J:- Appellant Muhammad Ghazi was tried in the Court of Judge, Anti-Terrorism Court No.IX, Karachi in Special Case No.29(III)/2014 under FIR No.11/2014 u/s. 385/386/506-B/34 PPC registered at PS Mithadar, Karachi, Special Case No.31(III)/2014 under FIR No.19/2014 u/s. 23(I)-A, SAA 2013 and Special Case No.32(III)/2014 under FIR No.20/2014 u/s. 23(I)-A, SAA 2013 both were registered at PS SIU Karachi and vide judgment dated 10.02.2016 he was convicted and sentenced as under:

- A. Accused Muhammad Ghazi found guilty of the charge of Section 6(2)(k) punishable u/s. 7 of ATA 1997 r/w. section 386 PPC is convicted and sentenced to suffer R.I. for seven (07) years with fine of Rs.25000 and in case of default in payment he shall suffer R.I. for two months more;
- B. Accused Muhammad Ghazi found guilty of the charge of Section 23(I)-A of SAA 2013 is convicted and sentenced to suffer R.I. for seven (07) years with fine of Rs.25000 and in case of default in payment he shall suffer R.I. for two months more;

All the sentences were ordered to run concurrently. However, benefit of Section 382-B was also extended to the appellant.

2. Brief facts of the prosecution case are that the complainant Huzaifa Ahmed Khan Khairullah lodged FIR on 17.01.2014 stating therein that he deals in business of papers along with his brother Nomanullah Khairullah at the office titled with "Paper and Bold Box Private Limited" situated at

704 Mohammadi House I.I. Chundrigar Road, Karachi. Three months prior the his complaint received phone call on his mobile phone No.0333-2131633 from mobile phone NO.0311-1249473 and the caller introducing himself as Uzair Baloch demanded extortion / bhatta amount of Rs.2,00,000/- and in case of non-payment issued threats of murder. Thereafter he received phone call on his office PTCL No.021-32427035 from same number with threats of dire consequences and ten days back from another mobile phone No.0335-2801302 and 0312-1246137 calls were made for extortion money issuing threats of murder. In the evening of 16.01.2014 between 10:00 or 11:00 p.m. the extortion was demanded from his brother on his mobile phone No.0335-2789228 and they had paid Rs.2,00,000/- through their employee Mehmood at settled place to the caller. He also moved a complaint to police through their Association, there after complainant went to PS for registration of FIR against unknown persons.

3. After usual investigation, the case was challaned and the accused was sent-up to face the trial where he pleaded not guilty to the charge.

4. The prosecution in order to prove its case examined 11 Prosecution Witnesses and exhibited various documents and other items. The statement of accused was recorded under Section 342 Cr.P.C in which he denied the allegations levelled against him and claimed false implication by the police. However, the appellant gave evidence on oath but did not produce any DWs in support of his defence.

5. After hearing the parties and appreciating the evidence on record, the trial court convicted the appellant and sentenced him as set out earlier in this judgment; hence, the appellant has filed this appeal against his conviction.

6. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment dated 10.02.2016 passed by the trial court and, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

7. At the very outset, learned counsel for the appellant under instructions stated that he did not press the appeal on merit as the appellant accepted his guilt provided that he was given some reasonable

reduction in sentence based on following special features/mitigating circumstances :-

- i) The appellant is a young man and has large family to support.
- ii) The appellant is first time offender and capable for reformation.
- iii) By accepting his guilt the appellant has shown genuine remorse and saved the time of this court.
- iv) The appellant had served out a substantial portion of his sentence.

8. We have gone through the evidence on record and find that this case does not fall within the provisions of ATA 1997 as such the appellant is acquitted of all the ATA offences. However, his convictions for the offences under the PPC and in respect of Sindh Arms Act, 2013 are maintained.

9. With regard to the sentencing based on the above mitigating factors and in particular no objection given by the Addl. Prosecutor General Sindh and the fact that the appellant has served out a major portion of his sentence we hereby reduce the appellant's sentence to the period already undergone in custody and waive off any fine payable by him. The appellant shall be released unless he is wanted in any other custody case.

10. The instant appeal stands disposed of in the above terms.