

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Spl. Cr. A.T. Appeal No.01 of 2025

Appellant: Muhammad Kashif @ Kareem @ Kashi & another
through Ms. Ambreen Syal Advocate.

Respondent: The State through Mr. Muhammad Iqbal Awan,
Addl. P.G.

10.12.2025.

JUDGMENT

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Muhammad Iqbal Kalhoro, J. Appellants Muhammad Kashif @ Kareem @ Kashi and Faisal Qalandder were arrested by police of P.S Gizri, Karachi from Khayaban-e-Abbasi near Siraiki Puliya (bridge), open Plot Phase VII, DHA, Karachi on 18.10.2023 at 0105 hours after an encounter in which police mobile was damaged and one of accused namely Kashif received injuries. From appellant Muhammad Kashif @ Kareem @ kashii an unlicensed 30 bore pistol without number with three live bullets was recovered. Accordingly, appellants were booked in FIR bearing Crime No.368/2023 U/s 353, 324, 427, 411, 34 PPC and appellant Muhammad Kashif was also booked in FIR No.369/2023 u/s 23(i) A, of Sindh Arms Act, 2013.

2. Appellants were tried against the same allegations and have been convicted U/s 324, 34 PPC r/w section 7(h) ATA to suffer R.I. for 05 years with fine of Rs.20,000/- each, in default to suffer S.I. for six months, U/s 353, 34 PPC to suffer R.I. for 01 year, U/s 427, 34 PPC to suffer R.I. for one year, appellant Kashif was convicted U/s 23(i) A, Sindh Arms Act, 2013 to suffer R.I. for 05 years with fine of Rs.20,000/-, in default to suffer S.I. for 03 months more. All the sentences were ordered to run concurrently. Benefit under section 382-B Cr.P.C was also extended to them. By means of this appeal, the appellants have challenged their conviction and sentence as stated above.

3. Learned defence counsel at the very outset submits that the appellant Faisal Qalander is the first offender; the appellants have remained in jail for a sufficient time, therefore, the period already undergone by them in jail may be treated as their sentence and they may be released. She further submits that there are certain discrepancies in the prosecution case which are sufficient for reduction of sentence.

4. Learned Addl. Prosecutor General has not opposed this proposal and has conceded that the appellant Faisal Qalander is not a previous convict.

5. We have heard learned counsel for appellants, learned APG and perused the material available on record. In the trial, the prosecution has examined 08 witnesses, who have supported the prosecution case on salient features viz. arrest of the appellants on the spot at the time of encounter with police and recovery of an unlicensed pistol from appellant Kashif. However, there is no evidence to suggest that due to the alleged encounter the general public had gone into panic or suffered from sense of insecurity or that the offence was committed by the appellants with a design to achieve any of the objectives specified in clause (b) of subsection (1) of section 6 of ATA, 1997 or aimed to achieve any of the purposes mentioned in clause (c) of subsection (1) of section 6, ATA, 1997 to attract applicability of sections 7(1)(h), ATA, 1997 in the case. At the most the offences seem to fall u/s 324, 353, 427 PPC. This legal position has not been disputed by the learned APG. No record has been produced to show that the appellant Faisal Qalander is previous convict. Learned defence counsel has stated that appellants are regretful of what went wrong in the past and want to improve themselves. The jail roll of appellant dated 08.10.2025 reflects that appellants have served sentence of 01 year, 11 months and 15 days including remission. The punishment u/s 324 PPC is extendable to 10 years, section 353 PPC is punishable upto two years and fine, punishment u/s 427 PPC is R.I. for two years or fine or both and punishment u/s 23(i), A of Sindh Arms Act, 2013 may extend to 14 years and fine. In such circumstances, we see no impediment legal or otherwise in acceding to the request of appellants for reduction of their sentence,

when he has already served out sentence of more than 01 year with remission.

6. In view of above, conviction and sentence of the appellants u/s 7(1) (h) ATA, 1997 is set-aside. However, their conviction u/s 353, 324, 427 PPC and u/s 23(i), A Sindh Arms Act, 2013 is maintained, but their sentence on all counts is reduced to the period already undergone by them. Fine in respect of all counts is also reduced to Rs.5,000/, in default, the appellants will have to undergo a period of 10 days more on each count.

The appeal in the terms as stated above stands disposed of.

Judge

Judge

A.K.