

IN THE HIGH COURT OF SINDH, KARACHI
Criminal Appeal No. 160 of 2024

Before:
Acting Chief Justice Zafar Ahmed
Rajput
Justice Miran Muhammad Shah

Appellant : Raid Ali s/o Hameed Khan, through
Mr. Ubedullah Ghoto, Advocate.

Respondent : The State, through Mr. Abrar Ali Khichi,
Addl. Prosecutor General (**Addl. PG**),
Sindh.

Date of hearing : 09.09.2025
Date of order : 10.11.2025

JUDGMENT

ZAFAR AHMED RAJPUT, ACJ. - This Criminal Appeal is directed against the judgment, dated 17.02.2024, passed in Sessions Case No. 113 of 2020, arising out of FIR No. 313 of 2019, registered at P.S. Bilal Colony, Karachi-Central under sections 377/511, P.P.C., whereby the II-Additional Sessions Judge, Karachi-Central (**“Trial Court”**) convicted the appellant for the offence punishable under section 377, P.P.C. and sentenced him to suffer R.I. for five (05) years and pay fine of Rs. 100,000/- or, in default thereof, to suffer S.I for six (06) months more.

2. As per prosecution’s case, on 21.11.2019 at different times, inside room constructed upon a shop Millan Echo Sound, situated at Sector 5/E, New Karachi, the appellant committed un-natural offence with Maaz Khan, the son of complainant Israr Khan, so also with other children, namely, Hammad, Junaid, Sheraz, Arshad and others. He was booked in the aforesaid FIR. After usual investigation, police submitted the charge-sheet against him. At trial, he denied the charge and the prosecution to prove the same, examined sixteen witnesses. The appellant in his statement recorded thrice under section 342, CrPC denied the prosecution’s allegation and pleaded innocence by stating that since birth he was residing in the same

vicinity with his family and prior to incident, he had some disputes with Ajmal (*PW-2*), who falsely implicated him in this case, and with Baksh Zaib (*PW-4*), who was running a cloth iron factory and *Mohallah* people were suffering from gas problem due to act of Baksh Zaib; they made application in UC, hence, he falsely deposed against him. On completion of trial, the Trial Court convicted the appellant and sentenced him as mentioned above, vide impugned judgment.

3. Learned counsel for the appellant, after arguing the case at some length, has contended that he does not press the Appeal on merits; however, he prays that the sentences awarded to the appellant may be reduced to a period, which he has already remained in incarceration, as the alleged offence provides lesser punishment of two years, and the appellant is not previously convicted of any offence, and with remission he has already served out a sentence of more than three years and three months, whereby he has sufficiently been punished.

4. Learned Addl. PG has also conceded to the fact that there is no CRO of the appellant.

5. We have heard the learned counsel for the appellant as well as Addl. PG, and have perused the material available on the record.

6. We have scanned the record. As per jail roll, dated 08.09.2025, furnished by the Senior Superintendent, Central Prison & Correctional Facility, Karachi, the appellant has served out the sentence of one year and about seven months, and he has earned remissions of one year, eight months and sixteen days. As such, till date, he has served total sentence of three years and five months with remission and his unexpired portion of sentence as shown in his jail roll is about two years including the sentence in default of payment of fine.

7. We are conscious of the fact that the punishment for any offence committed by a person is awarded for retribution, deterrence and in order to strengthen the society by reforming the guilty. The law itself has categorized the offences. It is well established that punishment for an offence serves not only as a means of retribution but also as a tool for deterrence and a mechanism to strengthen the fabric of society through the rehabilitation of the offender. The law itself classifies offences distinctly. In some instances, punishment is mandated with the expression “*not less than*,” denoting a fixed minimum, while in others, the law provides flexibility through terms like “*may extend to*” or “*may extend up to*” or “*not less than*.” This legislative contrast signifies that, in the latter category, the courts are expected to exercise judicial discretion by taking into account the specific facts and circumstances of the case. These are the kinds of offences where a lesser punishment may serve the ends of justice by allowing room for the offender’s moral and social reformation.

8. The appellant is 55-year-old man. He is neither previously convicted of any offence nor is there any instance of his involvement in any criminal case. We are, therefore, inclined to give him an opportunity for reformation. Consequently, the impugned judgment to the extent of conviction is maintained; however, the sentence awarded to the appellant by the Trial Court is reduced to already undergone.

9. With the above modification in the sentence, the appeal is dismissed. The appellant is in jail; he shall be released forthwith if his custody is not required by the jail authorities in any other case/crime.

10. The instant Appeal stands dismissed with above modification in sentence.

ACTING CHIEF JUSTICE

JUDGE

Athar Zai