

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Cr. Revn. Application No.D-15 of 2024

DATE	ORDER WITH SIGNATURE(S) OF JUDGE(S)
------	-------------------------------------

24.09.2026.

- 1. For orders on office objection.
- 2. For hearing of Main Case.
- 3. For hearing of M.A. No.3023/2024.

Mr. Nazeer Ahmed Bhangwar, DPG.

Riazat Ali Sahar, J.- We have perused the record. It appears that FIR bearing Crime No.21 of 2022 was registered at Police Station Madeji, District Shikarpur, for an alleged offence under Section 9(c) of **the Control of Narcotic Substances Act, 1997**, as applicable at the relevant time. The diary dated 06.06.2022 of the learned 2nd Civil Judge & Judicial Magistrate, Garhi Yasin, reflects that the case was transmitted to the learned District & Sessions Judge, Shikarpur, for trial on the premise that the Sessions Judge was vested with exclusive jurisdiction under the applicable law. Consequently, the charge was framed by the learned Sessions Judge, Shikarpur, on 29.06.2022.

However, subsequently, vide order dated 08.02.2023, the case was transferred to the learned 1st Additional Sessions Judge, Shikarpur, who proceeded with the matter, concluded the trial under above said Act, 1997 and ultimately passed the impugned judgment dated 22.03.2024.

The learned Judge in para-6 of the impugned judgment has disclosed as under;-

“06. It is worth observing that as per evidence and material brought on record prosecution in addition to inordinate delay of 07 days in sending case property also failed to prove safe custody and dispatch of case property, which is also a crucial legal requirement and sole failure thereof is sufficient to acquit an accused BUT turning point in this case is that accused for the reasons best known to him admitted his guilt in writing, expressed remorse and placed him at the mercy of this court thus he in-fact supported prosecution.”

The way of alleged confessional statement on the part of appellant is not satisfactory having no weight in the eyes of law. Therefore, the same may not be treated as confessional statement under the parameters of law and prescribed procedure.

We have observed that the impugned judgment dated 23.03.2024 passed by the learned 1st Additional Sessions Judge/MCTC, Shikarpur opined as under;-

“12. Consequently, I convict present accused of the charge in terms of section 245 (ii) Cr.P.C but for reasons and attending circumstances discussed supra sentence him with imprisonment for the period he remained inside the prison (undergone) as well as to pay fine of RS.10,00000/- (s. One Million) by taking the lenient view and in case of failure to pay fine convict will undergo simple imprisonment for ten years. The accused (now convict) who has been produced under custody from District Prison and Correctional Facility Shikarpur is hereby sent back along with conviction warrant and slip to be dealt with in this case as per law.”

In this regard, this court has called upon an explanation from the learned Judge but his reply is unsatisfactory as the trial Court is under obligation to fix the quantum of sentence and conviction if the case is proved but the accused cannot be given sentence as already undergone without specifying the quantum of sentence. Therefore, we set-aside the impugned judgment and direct the trial Court to pass an appropriate judgment on the basis of material available to the trial Court from the stage of arguments and then judgment.

Since the trial of the case was commenced by the learned 1st Additional Sessions Judge, Shikarpur, and the entire evidence has already been recorded before him, in the interest of continuity of proceedings and to avoid unnecessary duplication of the trial, the case shall be proceeded with by the same learned 1st Additional Sessions Judge, Shikarpur, from the stage of arguments and thereafter he shall pass an appropriate judgment strictly in accordance with law, on the basis of the material available on record.

The appeal is disposed of in the above terms.

JUDGE

JUDGE