

Form No: HCJD/C-121

JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
(JUDICIAL DEPARTMENT)

*Crl. Appeal No.100 of 2016*

Tahir Iqbal

Vs

ASJ (East) Islamabad, etc

Appellant by : Ms Hadiya Aziz, Advocate.

Respondents by : Mr Jameel Fayyaz Rajpoot, State Counsel.  
Mr. Nawaz, S.I.

Dates of Hearing : **11.01.2022**

ATHAR MINALLAH, C.J.- Tahir Iqbal son of Muhammad Iqbal (hereinafter referred to as the "**appellant**") was arrested on 22.08.2015 pursuant to recovery of 1543 grams of Chars (cannabis). The police officials separated 10 grams and it was sealed as a sample for the purposes of chemical analysis. FIR No.322, dated 22.08.2015 was registered under section 9-C of the Control of Narcotic Substance Act, 1997 (Ex.PA). The sample was sent for chemical examination to Punjab Forensic Science Agency (hereinafter referred to as the "**Agency**") on 11.09.2015. The sealed sample was delivered at the Agency by Muhammad Asif, Constable (Pw-5). The Agency submitted its report (Ex.PF) wherein it was stated that the sample contained narcotic substance. Charge against the appellant

was framed on 21.10.2015. The prosecution produced five witnesses while the appellant preferred not to be examined under oath and, therefore, his statement under section 342 of the Criminal Procedure Code, 1898 (hereinafter referred to as the "**Cr.P.C.**") was recorded. On conclusion of trial, and after affording an opportunity of hearing to the parties, the learned trial court vide judgment, dated 11.04.2016 convicted the appellant and sentenced him to undergo rigorous imprisonment for 18 months. In addition fine of Rs.20,000/- (twenty thousand) was also imposed.

2. The learned counsel for the petitioner at the outset has drawn our attention to the report of the Agency (Ex.PF). She has stated that the report is not in conformity with the principles and law laid down by the august Supreme Court. The learned counsel has further contended that there were serious discrepancies in the testimonies of the prosecution witnesses.

3. When confronted with the above, the learned State Counsel was not able to satisfy us that the report of the Agency (Ex.PF) was in accordance with the principles and law enunciated by the apex Court.

4. We have heard the learned counsel for the appellant as well as the learned State Counsel. We have also carefully perused the record with their able assistance.

5. The appellant was arrested on 22.08.2015 and he remained incarcerated till 11.04.2016. The appellant remained incarcerated for more than ten months. The prosecution had proved the factum of

recovery. Moreover, the sample which was separated and sent to the Agency for chemical examination remained in safe custody. However, the report (Ex.PF) of the Agency has not been found to be in conformity with the principles and law laid down by the august Supreme Court in the case titled "The State through Regional Director ANF vs. Imam Bakhsh and others", 2018 SCMR 2039. The report, therefore, cannot be conclusively relied upon though it confirms that the sample contained narcotic substance.

6. For the above reasons, we are not inclined to interfere with the conviction. However, the impugned judgment is modified by reducing the sentence to the period undergone by the appellant.

**(CHIEF JUSTICE)**

**(ARBAB MUHAMMAD TAHIR)**  
JUDGE

*Asif Mughal/.*