

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Umar Ata Bandial

Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Petition No.120 of 2020**

*(Against judgment dated 18.11.2019 passed by the  
Lahore High Court Lahore in Cr. Appeal  
No.219286/2018)*

***Allah Rakha***

...Petitioner(s)

**Versus**

***The State through P.G. Punjab & another***

...Respondent(s)

For the Petitioner(s):

Mr. M. Shahzad Siddiqui, ASC  
Syed Rifaqat Hussain Shah, AOR

For the State:

N.R.

Date of hearing:

07.05.2020.

**ORDER**

**Qazi Muhammad Amin Ahmed, J.-** Petitioner was detached as *Civil Nazir* with the learned Senior Civil Judge Sialkot; during routine audit, he was found to have misappropriated various amounts deposited under different heads, calculated as Rs.36,00,000/-; confronted with his misconduct, he deposited back a sum of Rs.7,00,000/-, with undertaking to clear the remainder of liability, a commitment that remained unfulfilled. After preliminary inquiry, he was sent to face trial before the learned Special Judge Anti-Corruption (Provincial) Gujranwala; vide judgment dated 16.5.2018, he was returned a guilty verdict, in consequence whereof, he was convicted and sentenced as below:-

“Under section 409 PPC, 10-years RI with fine of Rs.5,00,000/-  
Under section 420 PPC, 5-years RI with fine of Rs.5,00,000/-  
Under section 468 PPC, 5-years RI with fine of Rs.5,00,000/-  
Under section 471 PPC, 5-years RI with fine of Rs.5,00,000/-  
Under section 5(2)C PCA, 5-years RI with fine of Rs.5,00,000/-

In case of default of payment of fine, he shall further undergo six months SI for each offence; sentences shall run concurrently with benefit of section 382-B Cr.P.C..”

Petitioner's appeal met with no better fate in the High Court vide impugned judgment dated 18.11.2019, *vires* whereof, have been assailed on a variety of grounds, however, upon reconsideration, the learned counsel has prayed for reduction of sentence recorded under section 409 of the Pakistan Penal Code, 1860 from ten years to five years, a quantum equivalent to coordinate charges.

2. We have thoughtfully considered the alternate submission. The petitioner has been facing the consequences of his misconduct since the year 2015; he deposited back a sum of Rs.700,000/- and failed to clear the remainder liability on account of his obvious financial incapacity; he has been dismissed from the service. The learned trial Judge considered a period of five years as appropriate sentence on coordinate charges, however, awarded maximum sentence provided for an offence under section 409 of the Code *ibid*. Although the petitioner being a part of system of administration of justice was certainly under a heavier onus to maintain highest standard of integrity and rectitude, nonetheless, his indiscretion has not brought him anything other than an abiding stigma and loss of post retirement comforts, therefore, in the above backdrop, reduction of sentence recorded on the said count to five years RI would be a wage, conscionable in circumstances. The petition is dismissed, however, the sentence is accordingly reduced to run concurrently with coordinate charges, pre-trial period inclusive.

**Judge**

**Judge**

Islamabad, the  
7<sup>th</sup> May, 2020  
Not approved for reporting  
Azmat/-