

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

**PRESENT:**

Mr. Justice Manzoor Ahmad Malik  
Mr. Justice Syed Mansoor Ali Shah  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Appeals No.13-P of 2009, 37-P & 38-P of 2011 & 16-P of 2012**

*(Against the judgments dated 15.6.2007, 30.5.2011 and 19.10.2011 of the Peshawar High Court, Peshawar passed in Cr. A. No.666/2004, 602 & 614/2009 and 351/2009).*

***State through Director ANF Peshawar***

(in all cases)  
...Appellant(s)

**VERSUS**

***Muhammad Ramzan***  
***Rahim Gul***  
***Nasrullah***  
***Lal Pervez***

(in CrI.A.13-P/2009)  
(in CrI.A.37-P/2011)  
(in CrI.A.38-P/2011)  
(in CrI.A.16-P/2012)  
...Respondent(s)

For the Appellant(s) : Mr. Muhammad Tariq Khan, ASC

For the Respondent(s) : N.R.

Date of Hearing : 29.04.2019

**Judgment**

**Qazi Muhammad Amin Ahmed, J.-** With a common thread, the captioned appeals, though arisen out of different cases, nonetheless, inhere identical question of law and thus are being decided through this single judgment. Respondents were indicted for possession of narcotic contraband, in excess of 10 kilograms in each case; convicted under Section 9(c) of the Control of Narcotics Substances Act, 1997, they were sentenced to imprisonment for life along with fine. In appeals, their convictions were maintained, however, sentences awarded to them by the learned trial Courts were reduced to ten years R.I. The State did not countenance with the error and sought rectification thereof. In each case the leave has been granted to examine the vires of reduction of sentence. Respondents, released in consequence of the impugned judgments, despite repeated attempts, nonetheless, found it convenient to stay away from the Court by avoiding the process; they cannot be allowed to hold the process of law in abeyance by their default,

seemingly deliberate in circumstances. An appellant or a respondent has to be afforded a reasonable opportunity of hearing so as to vindicate his position more so in situations involving corporal consequences, however a party cannot avail this opportunity to a point of time of its own choice and therefore once the absence is found calculated to obstruct the judicial process, a case can be decided on its own merits. This practice is being consistently followed since the advent of case reported as Chan Shah versus The Crown (PLD 1956 FC 43) subsequently reaffirmed in the cases reported as Gul Hassan and another versus The State (PLD 1969 SC 89) as well as Ikramullah and others versus The State (2015 SCMR 1002). In this backdrop, we have examined the propriety of reduction of sentences with the assistance of learned counsel for the appellant. He has invited our attention to the proviso to Section 9 of the Act *ibid*, mandatorily providing punishment being not less than imprisonment for life in case the quantity of contraband exceeds ten kilograms, a common feature in each case.

2. Command of law escaped notice of the learned Judges of the Peshawar High Court and thus there being no occasion for the reduction of sentences, the captioned appeals are allowed, impugned judgments are set aside. Sentences awarded to the respondents by the learned trial Courts are restored. Perpetual warrants of arrest shall issue to bring the respondents to law so as to serve out sentences consequent upon convictions, never challenged by them before this Court.

JUDGE

JUDGE

JUDGE