

Judgment sheet.  
**IN THE HIGH COURT OF SINDH,**  
**CIRCUIT COURT, HYDERABAD.**  
Cr. Appeal No.S-19 of 2015.

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**DATE      ORDER WITH SIGNATURE OF JUDGE**

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For regular hearing.

Date of hearing:      14 .09.2017.

Date of judgment:      14.09.2017.

Appellants:      Through Mr. Imran Tunio, Advocate

The State:      Through Mr. Syed Meeral Shah DPG

Complainant:      Through Mr. Ghulamullah Chang, Advocate.

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**J U D G M E N T :-**

**ABDUL MAALIK GADDI, J** :- By means of this criminal Appeal, appellants Ghulam Rasool, Hussain, Khadim Hussain, Khalique, Gulzar and Deedar assailed the legality and propriety of the judgment dated 27.01.2005 passed by the learned IV Additional Sessions Judge, Hyderabad in Direct Complaint No.75 of 2009 (Re:Aman vs Ghulam Rasool & others), whereby the learned trial court after full-dressed trial convicted and sentenced the appellants as stated in the findings of the impugned judgment in Points NO.1&2 (Para-16 & 17) which reads as under:-

“16- In view of my findings on point No.01, it is clear that accused have committed offence under section 3(1) of Illegal Dispossession Act 2005 and they held guilty in the same. Accordingly, accused Ghulam Rasool, Hussain, Khadim Hussain, Khalique,

Gulzar and Deedar are convicted and sentenced for imprisonment of five (05) years Rigor imprisonment with fine of Rs.10,000/-. The accused shall also jointly pay sum of Rs.50,000/=as a compensation provided under section 544 Cr.P.C. In failure of payment of the fine and compensation, the accused shall serve (06) six months more simply imprisonment. The accused are present on bail. Their bail bonds are cancelled. They be taken into custody and sent to Central Prison Hyderabad alongwith conviction warrants to serve out the sentence.

17. Since it is proved that accused had illegally dispossessed the complainant from his plot No.38, admeasuring 1000 square feet in village Khatar Taluka Latifabad, Hyderabad, hence the possession of this plot is restored to complainant. The SHO Police Station Husri is directed to restore and deliver the possession of plot No.38 to complainant as per Sanad issued by Sindh Goth Abad Scheme Authorities within 30 days. The SHO Police Station Husri may also get assistance from concerned Mukhtiarkar in this regard. ”

2. Brief facts of complaint of complainant Aman Shoro are that he owned plot No.38, admeasuring 1000 square feet in village Khathar station Deh Khathar, Taluka Latifabad District Hyderabad. The complainant alleged that above appellants/accused and their companions are criminal minded, land grabbers and mischievous person, hence on 18.8.2009 he alongwith his son Faiz Mohammad and Mohammad Ashraf were sitting in his plot meanwhile at about 0700 hours the appellants/ accused alongwith some unknown persons duly armed with deadly weapons entered into the plot of complainant and asked them to leave it. According to complainant he requested to them to refrain from dispossessing him from the plot but he was severelly beaten up alongwith his son and above named witnesses. The

complainant alleged that he was forcibly dispossessed from the disputed plot. Hence, this complaint.

3. It is stated by the learned counsel for the appellants that on merits though the appellants have a good case for their acquittal on the ground that case of the prosecution is false and the evidence of the prosecution witnesses are on record, is contradictory to each other. He further submits that the appellants are facing agony of protracted trial since 2009 without their fault. According to him this appeal has been filed in the year 2015 and appellants are appearing in Court for the last 02 years, therefore, he would be satisfied and shall not press this appeal on merit, if the sentence awarded to the appellants by the learned trial court is reduced to the period which they have remained in jail. Per learned counsel appellants have remained in jail for a considerable time. Thereafter, the appellants were granted bail by this Court under section 426 Cr.P.C vide order dated 05.03.2015 and since then appellants are attending this Court regularly and the appellants are very old aged persons having no past criminal history. The appellants are only source for earning of their respective families.

4. Learned D.P.G after going through the record tenders no objection to above proposal.

5. I have thoroughly examined the record with the able assistance of learned D.P.G and Counsel for the appellants. In view of the record, I am of the opinion that the conviction of the appellants is based on

cogent reasons. The appellants are first offenders. No past criminal history against them is placed on record. They are very old aged persons, who remained in jail for a considerable time, therefore, in the present scenario of the case, the appellants have been sufficiently punished. Under these circumstances, they need to be given chance in their life to rehabilitate themselves.

6. Consequently, in view of above, the appellants deserve leniency. While taking lenient view, I dismiss this appeal on merits; however, reduce the sentence to one already undergone by the appellants and fine is hereby remitted. Appellants are present on bail, their bail bonds stand cancelled and surety discharged.

JUDGE