

**THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD**

Cr. Acquittal Appeal No.D-124 of 2019

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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For hearing of main case.

27.04.2023.

Mr. Sameeullah Rind advocate for the appellant.

Mian Taj Muhammad Keerio advocate for the respondents.

Mr. Nazar Muhammad Memon, Additional Prosecutor General.

O R D E R

MUHAMMAD IQBAL KALHORO, J:- FIR was registered on 04.12.2014 by complainant Abdul Malik alleging that respondents who are in fact near relatives of the complainant party came to dairy farm situated at Hyderabad on 01.12.2014 where he and his brother Abdul Razzaq were present. On the excuse of showing buffaloes for selling purpose to the complainant party, the respondents whisked away deceased Abdul Razzaq who was given Rs.335,000/- by the complainant for the said purpose. The deceased did not return and on 04.12.2014 complainant party came to know of discovery of a dead body on reading a local Sindhi Newspaper Kawish. On checking in hospital, the dead body was found to be of deceased Abdul Razzaq. Such discovery led to registration of FIR against the respondents.

In the trial, on account of death of complainant, he could not be examined. However, prosecution examined Abdul Samad who is son of the deceased. He has reiterated the above facts in his deposition. Except the last seen evidence, brought on record after 04 days of incident, no other evidence could be found against the respondents connecting them with the offence. It is surprising that for three days the complainant party did not report missing of the deceased to any police station although he accompanied the respondents with whom already their some litigation was pending in different Courts at Larkana and Sukkur as suggested in the cross examination. This delay is more baffling after reading evidence of PW.2 Abdul Samad, son of deceased, who has admitted that on the same night, the phone of the deceased was found switched off, so

also phones of the respondents. Taking no action despite being alarmed in fact lends credence to what has been concluded by the trial Court. The dead body was discovered on 02.12.2014 and on the same day his post-mortem was conducted showing that the deceased had died by strangulation through metallic wire. But in the investigation no recovery of any such article was effected nor any other evidence remotely connecting respondents with the alleged offence was found. In a case of last seen evidence, unless supporting evidence is found or there is complete chain of evidence identifying neck of the deceased connected to the hands of accused, conviction will not be recorded against the accused. In this case also, we have seen that except a word of the son of deceased that the respondents had visited dairy farm in Hyderabad, and on the pretext of showing some cattle to complainant for selling, they had taken away the deceased, no other evidence supporting the same facts, has come on record. No one from the dairy farm including the servants working there has been examined to support such story. Parties are close relatives, therefore, this very story for taking away the deceased on above pretext is not inspiring confidence either. We have seen reasons given by learned trial Court in support of recording acquittal which learned Additional PG has supported and are of the view that there is no evidence or material warranting interference in such findings. This being the position we find this acquittal appeal meritless and dismiss it accordingly.

JUDGE

JUDGE