

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Cr.Acquittal.Appeal.No.S- 70 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection.
2. For orders on MA 3748/2016.
3. For hearing of main case.
4. For orders on MA 3749/2016.

06.09.2019.

Mr. Muhammad Iqbal Hingoro, Advocate holding brief on behalf of Mr. Heeman Das, Advocate for appellant.

Ms. Sana Memon, A.P.G. for the State.

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Complainant has filed this Criminal Acquittal Appeal challenging the order dated 19.03.2016 passed by learned Civil Judge & Judicial Magistrate, Badin, whereby respondents against whom FIR No.17 of 2015 u/s 506(2), 420, 504, 34 PPC of P.S. Badin was registered, have been acquitted u/s 249-A Cr.P.C. on the ground that there is no probability of them being convicted in the alleged offences.

2. The case history shows that complainant and his counsel since filing of this appeal on 19.04.2016 have not taken any interest to argue this appeal and on most of the occasions when this case was fixed in court they were absent. In view of this fact on 05.07.2019 when this case was taken up and no one was present, this appeal was adjourned as a last chance. However, today also neither the appellant nor his counsel are present and on his behalf Mr. Muhammad Iqbal Hingoro, Advocate is holding brief who is not willing to argue the case.

3. I have gone through the material available on record with the assistance of learned Assistant Prosecutor General, Sindh, who has supported the impugned order on the ground that there was a family dispute between the parties on second marriage of respondent / accused Muhammad Riaz who is son in law of the complainant, due to which he was annoyed and got the present FIR registered against him and his family members.

4. A perusal of the impugned order reflects that learned trial court has acquitted the accused on various grounds which include that the complainant and his witnesses have failed to adduce evidence; there is delay of two days in lodging FIR regarding which no explanation has been forwarded and which creates a reasonable doubt over veracity of story of prosecution; there is a family dispute between the parties and that accused have been booked u/s 420 and 506(2) PPC which are two distinct and separate offences and that there is no evidence with regard to offence u/s 420 PPC that the accused had induced the complainant or his daughter to deliver the share of property.

5. The facts as narrated in FIR are that complainant is father in law of respondent No.3 Muhammad Riaz who allegedly during subsistence of his first marriage with daughter of the complainant contracted second marriage and on this fact the parties were on inimical terms. In this backdrop, it is alleged that on 22.01.2015 at about 5-00 p.m, complainant was present alongwith his family members when the respondents barged into his house and on asking as to why Muhammad Riaz had contracted second marriage and why he was not fulfilling conditions of Nikahnama, he took out a pistol and threatened the complainant and his daughter, who was his wife, of dire consequences in case they demanded fulfillment of terms and condition of Nikahnama.

6. The finding of trial court that there is no probability of accused being convicted in the offences on the grounds as stated above does not suffer from any illegality. It appears that on account of family dispute, this FIR was registered which otherwise is not supported by any independent evidence as even recovery of alleged pistol was not

effected from the respondents. Regarding alleged terms and conditions mentioned in Nikahnama i.e. maintenance etc, it may be said that same pertain to civil liability of respondent Muhammad Riaz and can be enforced by resorting to a proper remedy. In view of this, I find this Criminal Acquittal Appeal without any merit and dismiss it accordingly alongwith listed applications.

JUDGE

Tufail/PA