

## IN THE HIGH COURT OF SINDH, KARACHI

**Present:-**

Mr. Justice Muhammad Iqbal Kalhoro, J.

Mr. Justice Shamsuddin Abbasi, J.

### **Crl. Acquittal Appeal No.23 of 2020**

Khurram Shaikh

.....Appellant

### **Versus**

The State,  
& others

.....Respondents

**Date of hearing:** 09.09.2020

**Date of order:** 09.09.2020

Mr. Shamshad Ali Qureshi, advocate for appellant

Mr. Abrar Ali Khichi, Addl: P.G. Sindh

### **J U D G M E N T**

**Muhammad Iqbal Kalhoro, J.** Appellant Khurram Shaikh, who is complainant has challenged impugned judgment in Session Case No.1617/2018, FIR No.194/2018, u/s 302 and 34 PPC at Police Station New Karachi acquitting respondents.

2. Appellant is a brother of deceased Doctor Sheikh Bakhtiaruddin, who allegedly died of unnatural death on 03.06.2008 in hospital. However, FIR was registered on 04.07.2018 after the appellant came to know that respondents, who are father-in-law, brothers-in-law of the deceased and his wife Farkhunda, had committed murder of his brother by torturing on a money dispute. These allegations after investigation finally landed before the court of Additional Sessions Judge-VII, Karachi Central, which after a full-fledged trial has acquitted the respondents for want of evidence.

3. Learned counsel for appellant has submitted that although there may be no direct evidence against the respondents but since there is a difference in their narration of events disclosed in a response to application u/s 22-A & 22-B Cr. PC filed by complainant for registration of FIR against them, and defence taken by them in statement u/s 342 Cr. PC, as such they are the actual culprits and liable to be convicted for the alleged offence.

4. Learned Additional Prosecutor General Sindh has however supported impugned judgment and has submitted that this is case of no evidence.

5. We have considered submissions of the parties and perused the record. Learned trial court has thoroughly discussed the evidence brought by prosecution against the respondents in the impugned judgment and has recorded findings of acquittal in favour of them, which does not call for any interference by this court. There is no eye witness of the incident, and no circumstantial or last seen evidence against the respondents has been brought on record either. PW Sagar, alleged eye witness, was not examined by prosecution and was given up sanctifying presumption of him not supporting the case. As for contentions of learned counsel, there is hardly any need to consider the same. For, an accused cannot be convicted on the basis of his reply to any application for registration of FIR against him or / and his defence in statement u/s 342 Cr. PC. It is always the prosecution which is required to prove its case beyond a reasonable doubt to bring home guilt of the accused. No evidence is available against the respondents justifying reversal of findings recorded by the trial court. This being the position, this acquittal appeal is dismissed.

JUDGE

JUDGE

Rafiq/P.A.