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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Appeal No. 04 of 2022

Date Order with signature of Judge

1. For orders on office objection.
2. For hearing of Main Case.

23.02.2024.

Mr. Habibullah G. Ghouri, Advocate along with Appellants (on bail).
Mr. Aitbar Ali Bullo, Deputy Prosecutor General.
Mr. Noor Ahmed Lashari, Advocate along with respondent
No.1/complainant Mst. Safia Khatoon.

ORDER

Muhammad Saleem Jessar, J:- Through instant Criminal Appeal, appellants have assailed the judgment dated 07.01.2022 passed by learned IIIrd Additional Sessions Judge, Shikarpur, in Cr. Complaint No.426 / 2019 (Re: Mst. Safia Khatoon Shaikh v. Abdul Latif Shaikh & others) whereby appellants Abdul Aziz and Abdul Ghafoor, both by caste Shaikh, have been convicted under Section 3 of Illegal Dispossession Act, 2005 and sentenced to undergo imprisonment for five years and to pay fine of Rs.50,000/- each, in default whereof to undergo three months more in person; the appellants have also been directed to pay compensation to the complainant for Rs.100,000/- each, and in case of their failure to pay such compensation, same has been ordered to be recovered from them as arrears of land revenue. The Mukhtiarkar as well as the SHO concerned were directed to restore possession of the disputed property to the complainant.

2. During pendency of instant appeal, both parties have compromised the matter outside the Court and in this regard they have filed applications under Sections 345(2) & 345(6) of Cr.P.C alongwith

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respective Affidavits before the Court; taken on record. Accordingly, office shall assign numbers to these applications as per institution register. However, the contents of such Affidavits are affirmed by them. Complainant/respondent No.1 Mst. Safia Khatoon present in person, submits that possession of property in dispute has been handed over to her; therefore, she (the complainant) with the core of her heart has forgiven the appellants; hence, they have filed compromise applications jointly and she does not want to prosecute the appellants anymore. Complainant; however, records no objection if these applications are allowed and appellants are acquitted of the charge.

3. On the last date of hearing, Mukhtiarkar(Revenue), Taluka Garhi Yasin /respondent No.2 as well as SHO PS Garhi Yasin/respondent No.3 had filed their respective report/affidavit to the effect that the possession of the property in dispute has been handed over to the complainant/respondent No.1 under proper mashirnama.

4. The appellants, who are present in person (on bail), also submits that they have already put the complainant under peaceful and vacant possession of the land in dispute and further they being co-sharers will seek remedy by approaching the appropriate forum. Hence, they submit that by granting compromise applications the appeal may be disposed of and they may be acquitted of the charges.

5. Learned DPG present in Court waives notice of these applications and while placing his reliance upon the case of AKHTER HUSSAIN v. STATION HOUSE OFFICER SACHAL KARAH and 02 others reported in

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2020 P.Cr.LJ Note 20, records his no objection, if applications are granted.

6. Since the possession of land/property in dispute has been handed over to complainant/respondent No.1; therefore, the complainant does not want to prosecute the appellants anymore; hence, she has entered into compromise with the appellants voluntarily and has raised no objection for grant of these applications as well as disposal of the appeal accordingly. Learned DPG as well as learned Counsel for respondent No.1/complainant have also extended no objection.

7. In view of above, it is observed that compromise entered into between the parties appears to be genuine, lawful and without any pressure or coercion from any side and that complainant has voluntarily forgiven the appellants / accused. Therefore, keeping in view the cordial relations between the parties in future, the compromise application under Section 345(2) Cr.P.C is hereby granted and application under Section 345(6) Cr.P.C is accepted. The appellants are acquitted of the charges by way of compromise. They are present on bail; their bail bonds stand cancelled and surety(ies) is/are hereby discharged.

8. Appeal stands disposed of in above terms.

JUDGE

The above order has been complied
On 07.03.24

Accountant