

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Acquittal Appeal No.S-219 of 2010

Mst. Meeran APPELLANT.

VERSUS

Matloob and others. RESPONDENTS

Date of hearing: 26.05.2017

Date of decision: 26.05.2017

None present for the appellant as well as private respondents.

Mr. Shahid Ahmed Shaikh, A.P.G.

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J U D G M E N T

ABDUL MAALIK GADDI, J – Through this criminal acquittal appeal the appellant has assailed the legality and propriety of the judgment dated 21.05.2010 passed by the learned Sessions Judge Hyderabad in Sessions Case No.625/2008 (Re: State v. Matloob Ahmed Khan and others) registered u/s 20 H.O, 147, 148, 149, 436, pertaining to crime No.151/2008 registered with P.S. Qasimabad, District Hyderabad, whereby the learned Trial Court after full dress trial has acquitted the accused from the charge.

2. The allegation against the accused is that on 27.03.2008 at 1400 hours, at the house of complainant Mst. Miran situated at Katchi Abadi near Old Wahdat Colony, Hyderabad, all the accused named above alongwith absconding accused Saeed Munshi duly

armed with deadly weapons entered into the house of complainant and after controlling all family members of complainant, they snatched one brief-case including 20 pairs of unstitched clothes, two gold rings and one pair of gold ear ring and cash of Rs.3000/- and also forcibly dispossessed all the inmates of the house of complainant from their house and then set on fire the house of complainant along with remaining articles.

3. The charge against the accused was framed at Ex.2 by the Court of learned 6th Additional Sessions Judge, Hyderabad and their pleas have been recorded at Ex.3 to 10 respectively to which they pleaded not guilty and claimed their trial.

4. At the trial, prosecution has examined PW-1 complainant Meeran at Ex.11, who has produced FIR at Ex.11-A.

5. Thereafter, on 4.11.2009, the case was received by Sessions Judge by way of transfer.

6. After receipt of the above case by Sessions Judge, PW-2 Abdul Shakoor Bhatti was examined at Ex.12, PW-3 Naseer Ahmed was examined at Ex.13, and PW-4 SIP Javed Hussain Shaikh was examined at Ex.15, who had produced mashirnama of wardat at Ex.15-A. Thereafter, the prosecution closed the side vide statement at Ex.16.

7. After having considered the evidence brought on record by the prosecution and submissions of the learned Counsel for the parties, the Trial Court acquitted the accused through impugned judgment.

8. Today, this appeal is fixed for regular hearing but neither applicant nor her Counsel is present. No intimation received. It is now 10-40 a.m. same was the position on the last two dates of hearing viz. 16.08.2010 and 06.02.2017. It appears that perhaps appellant has lost interest in the matter.

9. It reveals that since this appeal is pending since 2010, therefore, I myself with the assistance of learned A.P.G have gone through the case file for its disposal as per law. From the perusal of record shows that during evidence it has been admitted by the P.Ws that there is a delay in lodging of F.I.R. for 27 days. It is an admitted fact on record that the complainant was occupying the government property. It is also an admitted fact on record that P.W Naseer Ahmed and Abdul Shakoor are accused alongwith complainant for illegally occupying such property, therefore, in such circumstances, false implication of the accused in the case, who are employees of the railway department cannot be ruled out. Besides this, number of contradictions has been pointed out by the learned A.P.G during the evidence of the prosecution witnesses. The evidence produced on record was not enough to record the conviction of accused. No motive against accused stood proved. No circumstantial evidence is on record and accused had not confessed the guilt. Under the circumstances, the Trial Court has rightly apprised the evidence brought on record and impugned conclusion was based on correct and legal footings which need no interference by this Court.

10. It is settled law that the principles for deciding the appeal against conviction and acquittal are different from each other. Once an accused was acquitted by the competent court of law after facing

agonies of a protracted trial then he/they would earn the presumption of double innocence, which cannot be disturbed by the appellate court in a lightly manner. Here in this case as observed no sufficient evidence is on record to convict the accused.

11. In view of the above, no case is made out for interference by this Court in the impugned judgment. I therefore, find no merit in this Criminal Acquittal Appeal, which is dismissed.

JUDGE