

IN THE HIGH COURT OF SINDH, AT KARACHI

Cr. Acquittal Appeal No.157 of 2017

Present. Mr. Justice Nazar Akbar-J.

Appellant : Mirza Sabihuddin Barlas, through
Khawaja Muhammad Azeem, Advocate.

Respondent No.1 : The State
through Ms. Seema Zaidi, Addl. P.G.

Respondent No.2 : Muhammad Zeeshan
Respondent No.3 : Muhammad Usman
Respondent No.2 : Abdul Rehman

Date of hearing : 31.05.2018.

Date of judgment : 31.05.2018.

JUDGEMENT

Nazar Akbar-J. This Criminal Acquittal Appeal has been filed by the Appellant/Complainant, Mirza Sabihuddin Barlas to assail the judgment dated **09.03.2017**, whereby learned Vth Civil Judge & Judicial Magistrate (East) Karachi has acquitted Muhammad Zeeshan, Respondent No.2, Muhammad Usman, Respondent No.3 & Abdul Rehman Respondent No.3 in Cr. Case No. 3258 of 2010, arising from Crime No.335/2010 of police station Model Colony, under sections 420/506-B, P.P.C.

2. Briefly, the facts of the case are that during the period 2004 to the date of lodging of FIR Respondents No.2 to 4 by sharing their common intention cheated the complainant/appellant dishonestly inducing him to deliver amount of Rs.5,80,000/- as sale consideration of half portion of House No.22/48 and also committed criminal intimidation by issuing threats to kill the appellant/complainant. After lodging of FIR the investigation was carried out and ocular and documentary evidence was produced by the complainant. It was followed by report under **Section 173**

Cr.P.C against the Respondents No.2 to 4 and the case was challaned against the accused under Section 424 Cr.P.C before the competent Court of law where the charge was framed as Ex.3 to which the accused/ Respondents No.2 to 4 pleaded not guilty and claimed trial vide their plea as Ex.3/A to Ex.3/C. Prosecution in support of charge, examined five witnesses.

3. The statement of accused under Section 342 Cr.P.C was recorded as Ex.11, wherein they claimed to be innocent but did not produce witnesses in their defense under Section 340(2) Cr.P.C nor examined themselves on oath.

4. On completion of trial and hearing learned counsel for the parties, the learned trial Court passed the impugned judgment whereby accused/respondents No.2 to 4 were acquitted U/s.245(1) Cr.P.C, on benefit of doubt, hence this acquittal appeal.

5. I have heard learned counsel for the appellant/Complainant and learned Addl. P.G Sindh for Respondent No.1 while as per record, nobody was appearing on behalf of Respondents No.2 to 4. However, perused the material brought on record as well as scanned the prosecution evidence with the assistance of learned counsel for Appellant/Complainant as well as learned A.P.G.

6. Learned counsel for the applicant despite repeated queries from the Court could not point out even a single line from the evidence of any substance to connect the respondent with the criminal offence under Section 420 and 506(b) PPC. From the own showing of the complainant, he claimed to have been cheated sometimes in April, 2004 and he has lodged FIR in 2010. He has not offered any explanation for his failure to lodge the FIR with delay of more than six years. Be that as it may, even he admits

that he has entered into an agreements are in respect of the immovable property in 2004 and has made part payments of sale consideration. However, he did not prefer to file any suit for specific performance of the contract or even for refund of money in case the contract was not implemented. Therefore, no case was made out and the trial Court has rightly acquitted the respondents/accused.

7. In view of the above facts and discussion, instant acquittal appeal was dismissed by a short order dated **31.5.2018** and above are the reasons for the same.

JUDGE

Karachi
Dated: .07.2018

SM-Ayaz Gul