

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Crl. Acq. Appeal No.181 of 2016

Date	Order with signature of Judge
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Present: Mr. Justice Nazar Akbar

Appellant : Nasim Jani Shaikh, Deputy General
Manager K-Electric, through
Mr. Malik Khushhal Khan, advocate.

Versus

Respondent No.1 : The State.

Respondent No.2 : Muhammad Aslam. (Nemo)

Respondent No.3 : Civil Judge & Judicial Magistrate VIII,
District (Malir) Karachi.

Date of hearing : **18.01.2019**

Date of decision : **18.01.2019**

JUDGMENT

NAZAR AKBAR, J:- This Crl. Acq. Appeal is directed against the judgment dated **31.03.2016** passed by the learned VIII-Civil Judge and Judicial Magistrate, Malir Karachi in Criminal Case No.31/2016 arising out of FIR No.56/2013 U/S 39 of Electricity Act, 1910, registered at P.S KESC, Karachi.

2. Brief facts of the case are that on **01.11.2013** at about 1200 hours during the checking of electricity at Buffalo cattle Farm, Commercial Shops and Resident house Plot No.95 Survey No.1673/1674 Road No.4 Bhens Colony, Malir Karachi, appellant/complainant found that respondent No.2/accused has committed theft of electricity by using direct cable wire 10mms. Therefore, appellant/complainant Nasim Jani, Deputy General Manager, K-Electric, IBC Bin Qasim, Karachi lodged such FIR at P.S KESC.

3. After completion of investigation the IO has submitted charge sheet against accused person. Formal charge was framed vide Ex.2 to which he pleaded not guilty and claimed trial as per plea Ex:2/A. After examination of witness and hearing learned counsel for the parties, learned trial Court acquitted Respondent No.2/accused by extending him benefit of doubt U/S 245(1) Cr.PC. thereafter the appellant/Complainant has filed instant Cr. Acq. Appeal on behalf of K-Electric against the said order.

4. I have heard learned counsel for the appellant and perused the record.

5. In his examination in chief, PW-1 Amir Ali Langha, Assistant Manager, K-Electric has stated as under: -

“We issued the notice to registered consumer, on next day on 02.11.2013 the police party inspected the place of incident on the pointation of complainant.”

In his cross examination he has stated as under: -

“The meter through consumer No.AL0801313 in the name of Muhammad Aslam, the meter through consumer No.AL-313222 is in the name of Muhammad Ashraf. It is correct to suggest that consumer No.AL-313222 is in the name of Muhammad Fareed as per record. I do not know whether any notice was issued against Muhammad Fareed regarding any outstanding amount. It is fact that no person from said cattle ponds was cited as witness in all proceedings of the case. It is fact that no complaint was received by Meter Reader or Inspector regarding theft of subject meter prior to 01.11.2013.”

6. From perusal of record and evidence of the parties, it appears that this was a case of no evidence for prosecution against Respondents No.2. The following observations of trial Court are worthy of taking note of:-

In view of above reasons and discussion on point No.1, it came on surface that the prosecution has

miserably failed to establish the guilt against the accused beyond shadow of doubt, therefore, accused is entitled to get benefit of doubt, which is hereby extended to him and resultantly the accused Muhammad Aslam S/O Muhammad Ali, is acquitted under section 245(1) Cr.P.C. He is present on bail, his bail bond stand cancelled and surety discharged.

7. In view of the above observation, the learned trial Court has rightly acquitted Respondent No.2. Accordingly, instant Criminal Acquittal Appeal was dismissed by short order dated **18.01.2019** and these are the reasons for the same.

JUDGE

Karachi
Dated:07.03.2019

Ayaz Gul