

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Crl. Acq. Appeal No.221 of 2011

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

Appellant : Sindh Building Control Authority
Through Mr. Muhammad Shahzad Qureshi,
advocate

Versus

Respondent No.1 : Abdul Razzak Khamosh,
Mr. K. A. Wahab, advocate holding brief for
Mr. Umer Lakhani, advocate.

Respondent No.2 : The State
Through Ms. Amna Ansari, Addl. P.G

Date of hearing : **04.03.2019**

Date of decision : **15.03.2019**

JUDGMENT

NAZAR AKBAR, J:- This Crl. Acq. Appeal is directed against the judgment/order dated **02.04.2011** passed by the learned IInd Judicial Magistrate East Karachi in Complaint **No.770/2010** (old No.01/2008) arising out of Private Complaint U/s.6 r/w Section 19 of the Sindh Building Controls Ordinance, 1979.

2. Brief facts of the case are that Respondent No.1 Abdul Razzak Khamoosh got obtained permission for construction of basement, ground floor, Mezzanine and four floor on Plot No.309 (N.C. 210 Deh O Kewari Tappo Songal Taluka East project known as Moon Garden, Karachi, but he constructed basement, ground floor mezzanine, Eight Floors and paint house in violation of rules of Karachi Building Control Authority without permission, therefore, Complainant filed said complaint against Respondent No.1.

3. On **23.12.2008**, copies as required U/s.241(a) Cr.P.C supplied to accused under receipt as **Ex.01**. On **26.5.2009** a formal charge U/S 242 Cr.P.C was framed against the accused as **Ex.2** to which he pleaded not guilty and claimed trial as per plea **Ex:2/A**.

4. After framing of charge, complainant examined one witness as **Ex.03**. After closing the side on behalf of the Complainant as **Exh.4** dated 11.12.2010. The statement of accused was recorded U/s.342 Cr.P.C as **Ex.05** in which accused/Respondent above named denied the allegations leveled against him by the complainant. However, he neither offered his evidence on oath within meaning of Section 340(2) Cr.P.C nor led any evidence in his defence though produced copy of approval of layout plan of CDGK, CBF, copy of order of Hon'ble High Court of Sindh, copy of notice, copy of order under A-Class as **Ex.5/A** to **5/H** and pleaded himself to be innocent.

5. Learned IInd Judicial Magistrate, East Karachi after examination of witness and hearing learned counsel for the parties, acquitted Respondent No.1/accused by extending him benefit of doubt U/S 245(I) of Cr.PC. thereafter the appellant/SBCA has filed instant Cr. Acq. Appeal against the said order.

6. I have heard learned counsel for the parties as well as learned Additional P.G and perused the record.

7. The perusal of the impugned order shows that the learned trial Court has thoroughly discussed the evidence and found several lacunas which have been discussed in detail, more particularly the document ought to have been produced by the prosecution have not been even produced by the complainant party. Only one witness has been examined whose statement was not confidence inspiring and

nobody else has appeared in support of the complainant, therefore, the impugned order need not to be interfered by this Court.

8. In view of the above, instant Crl. Acq. Appeal is dismissed.

JUDGE

Karachi
Dated:15.3.2019

Ayaz Gul