

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Acquittal Appeal No.167 of 2018

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

Appellant : Mst. Sajida Naz Wd/o Nasir Khan. (Nemo).

Versus

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

Respondent No.2 : Haji Muhammad Ashfaq,
Respondent No.3 : Muhammad Ibrahim
Respondent No.4 : Attiq-ur-Rehman, All through
Mr. Muhammad Akbar Khan, advocate

Date of hearing : **21.03.2019**

Date of decision : **21.03.2019**

JUDGMENT

NAZAR AKBAR, J:- This Crl. Acq. Appeal is directed against the Judgment dated **30.01.2018** passed by the learned V-Additional Sessions Judge, West Karachi on application under Section 265-K Cr.P.C filed by the accused/respondents No.2 to 4 in Private Complaint No.876/2011, whereby learned trial Court had acquitted the accused/Respondents No.2 to 4 under Section 265-K Cr.P.C.

2. Brief facts of the case are that on 20.8.2009 at about 10' O clock, the accused persons have committed murder of deceased Nasir Khan by causing fire arm injury on his head over the dispute of land.

3. In order to prove the charge, the applicant/complainant examined herself and was cross examined, whereas other witnesses have been examined and in the meanwhile the accused/ respondents

have filed application under Section 265-K Cr.P.C before the trial Court.

4. Learned trial Court after hearing learned counsel for the parties by order dated **30.01.2018** acquitted the respondents under Section 265-K Cr.P.C. Against said order the appellant/complainant preferred instant Criminal Acquittal Appeal.

5. From perusal of record it revealed that learned Mr. Shakeel Ahmed, counsel for the appellant has remained absent on almost every date of hearing except on 13.3.2019 when this case was fixed before this Court and in his presence following order was passed:-

13.3.2019

*Mr. Shakeel Ahmed advocate for the Appellant
Ms. Seema Zaidi, DPG
Mr. Muhammad Akbar Khan advocate for
Respondents No.3 and 4.*

*Mr. Shakeel Ahmed, learned counsel for the Appellant from the date of filing of this appeal remained absent on every date. He got the notice issued on **08.5.2018** and then he remained absent on **08.6.2018, 09.8.2018, 18.9.2018, 11.10.2018, 06.2.2019** and even today he was not present in the morning and after tea break when this case started he said that this is a case of widow, the Court should be very merciful and the case should be proceeded on merit. During proceedings, he requests for adjournment on the ground that he wants to file some documents. At the request of Mr. Shakeel Ahmed, the matter is adjourned to **21.3.2019** at **11:00 a.m.** On the next date, if learned counsel for the Appellant fails to appear and proceed with the matter, this criminal acquittal appeal will be dismissed for non-prosecution.*

6. Learned counsel for the accused/respondents contended that learned trial Court has rightly acquitted the accused/ respondents as there was no evidence against them and the order passed by the

learned trial Court is well reasoned, therefore, does not call for any interference by this Court.

7. Learned D.P.G. representing the State has also supported the impugned judgment. She contended that the impugned judgment has been passed in accordance with the law.

8. The perusal of impugned order shows that there were contradictions in the cross-examination of appellant/ complainant and it was found by the trial Court that the charge against the accused/ respondents was groundless. In this context the observations of the trial Court in the impugned judgment are well reasoned on the basis of following evidence of the appellant herself:

It is correct to suggest that before filing the CP one FIR No.192/2009 regarding the accident of my husband was already lodged at P.S. Pak Colony.

It is correct to suggest that I have filed the death certificate alongwith my instant petition.

It is correct to suggest that Doctor of Abbasi Shaheed hospital told me that my husband expired due to road accident.

It is correct to suggest that neither I myself nor police had possessed any evidence that my husband was killed.

It is correct to suggest that neither I myself nor police had produced any proof before courts that my husband killed by the accused persons.

It is correct to suggest that there is no any eye witness of murder of my husband. It is correct to suggest that no weapon was recovered by the police during investigation.

The above evidence before the trial Court was enough for acquittal of the Respondent and the trial Court has relied on findings of superior Court mentioned in the impugned order. The learned counsel for the appellant is absent despite the fact that on **21.3.2019** this case was adjourned in presence of learned counsel for the appellant and it is a

time fixed matter, therefore, after hearing learned counsel for Respondents as well as learned D.P.G representing the State, instant criminal Acquittal Appeal was dismissed for the reasons to be recorded later on. These are the reasons for the same.

JUDGE

Karachi
Dated: 29.03.2019

Ayaz Gul