

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Acquittal Appeal No.197 of 2019

Date	Order with signature of Judge
------	-------------------------------

Present: Mr. Justice Nazar Akbar

Appellant : Muhammad Saleem, through
Mr. Naheed Afzal Khan, advocate.

Versus

Respondent No.1 : The State

Respondent No.2 : Sultan Ahmed

Respondent No.3 : Munir Ahmed Gabol.

Date of hearing : **10.04.2019**

Date of decision : **10.04.2019**

JUDGMENT

NAZAR AKBAR, J:- This Crl. Acq. Appeal is directed against the order dated **13.02.2019** passed by the learned XXII-Judicial Magistrate, East Karachi on application under Section 249-A Cr.P.C filed by the accused/respondents No.2 and 3 in Case No.2268/2015 arising out of FIR No.163/2015 registered at P.S Mobina Town under Sections 384/385/506-B/34 PPC, whereby learned trial Court had acquitted the accused/Respondent No.2 and 3 under Section 249-A Cr.P.C.

2. Brief facts of the prosecution case are that the appellant/complainant lodged FIR against the accused/Respondents No.2 & 3 stating therein that he is owner of a plot No.A-9, Haji Lemo Goth, Block-3, Gulshan-e-Iqbal, Karachi. The accused/Respondent No.2 was extending threats and was demanding Rs.10,00,000/-. On

04.07.2015 accused/Respondent No.2 and his son/Respondent No.3 alongwith others came at the plot of the appellant and forced the chowkidar to run away from the plot and threatened the labours to stop the work. On 05.07.2015 the Respondent/accused again came at the plot of the appellant and pelted stone on the labours due to which the labours were injured and Respondent No.2 took out pistol and said that he will not allow to construct the building at any cost until owner of the building pay Rs.10,00,000/- to him, therefore, the appellant/complainant lodged FIR against the accused/Respondents No.2 and 3.

3. After usual investigation, challan was submitted before the trial Court and formal charge was framed against accused persons. They pleaded not guilty and claimed to be tried. During evidence stage application under Section 249-A Cr.P.C was filed on behalf of Respondent No.2 and 3/accused.

4. Learned trial Court after hearing learned counsel for the parties, acquitted accused/ Respondent No.2 and 3 by order dated **13.02.2019**. Therefore, the appellant/ complainant has filed the instant Criminal Acquittal Appeal.

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

6. Learned counsel for the appellant has contended that the appellant/complainant implicated both the accused/Respondents in the offence and specified their role and the witnesses have supported the version of the complainant but the learned trial Court has erred the facts and law while passing the impugned order.

7. 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 himself:

It is correct to suggest that accused persons have not directly demanded money from me. It is correct to suggest that I have not narrated in application the names of persons through whom I was asked for money. It is correct to suggest that I have not submitted any application before police within six months of demanding of money by accused. It is correct to suggest that names of injured labours are not mentioned in application as Ex:5/A. It is correct to suggest that names of injured labours are not mentioned in FIR. It is correct to suggest that names of injured labour Abid and Allahi Bux are not mentioned in my all exhibitions. It is correct to suggest that I did not transport injured labour to hospital but my staff transported inured labour to hospital on 05.07.2015. It is correct to suggest that I was not present on the spot. It is correct to suggest narrated names of staff who transported inured labour to hospital.

Beside above evidence, there was no medical evidence on the record of trial Court which show the injuries sustained by the labours as alleged by the appellant/complainant in the FIR so also the prosecution has failed to produce any proof of ransom demanded by the accused/Respondents. Therefore, the above evidence before the trial Court was enough for acquittal of the Respondents/accused.

8. In view of the above, instant Criminal Acquittal Appeal is dismissed in limini.

JUDGE

Karachi
Dated: 10.04.2019

Ayaz Gul