

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No.201 of 2017

Date	Order with signature of Judge
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For hearing of main case

15.03.2019

Syed Ali Azam, advocate for the appellant.

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1. This Crl. Acq. Appeal is directed against the judgment dated **30.03.2017** passed by the learned XIIth Judicial Magistrate Central, Karachi in Criminal Case No.398/2014 whereby the trial Court has acquitted Respondent No.1 by extending them benefit of doubt.

2. It is contended by the learned counsel for the appellant/complainant that the Complainant in the year 2010 got booked a Flat No.S-3 2nd Floor, Block 3/B-2/13, Nazimabad No.3, Karachi from one contractor Rizwan through an agreement in lieu of constitution amount 55 lac. The owner of the same plot was Bilal. Rizwan and Bilal were partners. The appellant/complainant possesses the receipts of the amount paid and she also paid more amount of Rs.4/5 lac. But the possession of the same was not handed over to the appellant/complainant in time. The appellant / complainant after fixing the doors obtained the possession. On 10.12.2013 the accused Bilal alongwith his companion Shahid Iqbal and 3/4 unknown persons came to the complainant to occupy the said flat. The accused Shahid asked the complainant that the said flat was leased in the name of his wife and sub-lease is in the name of one Arif Rehmani while showing documents. The complainant told them the sub-lease of the said plot is in the name of the complainant. Then accused persons went away and complainant got verified her lease same was found genuine.

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

4. The perusal of the impugned order shows that the learned trial Court has rightly observed that:-

“...The PW-01, the complainant, deposed in her examination in chief that she came to know through her neighbourer that the lock of her flat was broken by the accused persons but she did not disclose the name of such neighbourer nor he was examined before this court and she deposed in her cross examination that she did not see the present accused while breaking the lock of her flat. It casts serious doubt upon the prosecution case.....

.....The PW-03 clearly deposed in his cross examination that he did not see any of the accused persons while breaking the lock of the flat in question. The piece of evidence also casts doubt upon the prosecution story.....

5. In view of the above, no case is made for interference in the impugned judgment by this Court, therefore, this Crl. Acq. Appeal is dismissed alongwith listed application.

JUDGE