

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No.223 of 2018

Date	Order with signature of Judge
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For hearing of main case

15.03.2019

Raj Ali Wahid, advocate for the appellant.
Ms. Seema Zaidi, D.P.G.

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1. This Crl. Acq. Appeal is directed against the judgment dated **02.03.2018** passed by the learned XXIVth Civil Judge & Judicial Magistrate East, Karachi in Criminal Case No.1320/2015 whereby the trial Court has acquitted Respondent No.3 to 7 by extending them benefit of doubt.
2. It is contended by the learned counsel for the appellant/complainant that the Respondents No.3 to 7 with common intention, prepared forged affidavit/Iqrarnama related to shares of property of mother of appellant/complainant namely Mst. Mohsina Siddiqui which contained forged signatures of complainant namely Khalid Nasser Siddiqui, his father, mother and all brothers and sisters. Respondents N.3 to 7 had cheated, dishonestly induced the appellant/complainant and his mother by preparing forged/manipulated affidavit/Iqrarnama. It is further contended that on 23.11.2014 between 1600 hours and 1700 hours, Respondents No.4 & 5 came at the house of appellant at Quarter No.E-3/1, Jahangir Road East Karachi and threatened him and his mother.
3. I have heard the learned counsel for the appellant and learned DPG for State and perused the record.
4. The perusal of the impugned order shows that the learned trial Court has rightly observed that:-

“....It is settled principle of law that multiple factors and infirmities are not necessary for creating doubt and dent in the prosecution case. A single infirmity is sufficient for such doubt and the benefit whereof must be extended to the accused not as a matter of grace and concession but as a matter of right. Reliance is placed on **1995 SCMR 1345, 2014 P.Cr.L.J 1067 [Sindh]** and **2014 P.Cr.L.J 928**. It is also settled law that prosecution is bound to establish guilt of the accused beyond reasonable doubt by producing trustworthy, convincing and coherent evidence and if Court comes to the conclusion that the charge so leveled against the accused has not been proved beyond reasonable doubt, then accused becomes entitled for his acquittal on getting benefit of doubt. Rule of benefit of doubt is essentially a rule of prudence which could not be ignored while dispensing Justice in accordance with law. Said rule is based on the maxim “It is better that ten guilty persons be acquitted rather than one innocent person be convicted” which occupies a pivotal place in the Islamic Law and is enforced strictly in view of the saying of the **HOLY PROPHET (P.B.U.H)** that the **“Mistake of Qazi (Judge) in releasing a criminal is better than his mistake in punishing an innocent.”** It is now settled that conviction must be based upon unimpeachable evidence and certainty of guilt and any doubt arising in the prosecution case must be resolved in the favour of accused. Reliance is placed on **1999 SCMR 1220, SCMR 230, 2014 P.Cr.L.. 1559** and **2015 YLR 1515**.....

.....it appears that the prosecution has failed to prove its case beyond reasonable doubt whereas the whole prosecution story has become doubtful. In these circumstances, I am inclined to acquit the accused person(s) 1) Mst. Zareen Jawed w/o Muhammad Jawed, 2) Mst. Nasreen Iqbal w/o Muhammad Iqbal, 3) Muhammad Iqbal s/o Ghulam Muhammad, 4) Mst. Shireen w/o Rehmatullah Saleem and 5) Rehmatullah Saleem s/o Mushfiq Muhammad Saleem under Section 245(i) Cr.P.C from the charge on account of Benefit of Doubt.

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

JUDGE