

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No.537 of 2018

Date	Order with signature of Judge
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For order's as to non-prosecution

25.03.2019

Appellant Muhammad Zahid Riaz, present in person.

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1. This Crl. Acq. Appeal is directed against the judgment dated **30.08.2018** passed by the learned Xth Judicial Magistrate (South) Karachi in Criminal **Case No.2418/2009** whereby the trial Court has acquitted Respondents No.2 to 4 by extending them benefit of doubt.

2. Brief facts of the case as per complaint dated 21.11.2007, is that Mst. Tehmina Sattar D/o Abdul Sattar and Abdul Ahad Arian s/o Abdul Sattar Arian are nominated in FIR No.137/2005 registered at FIA Passport Cell Karachi and investigation was carried out and it was transpired that proposed accused Mst. Rubina Sattar d/o. Abdul Sattar Arian had obtained her CNIC No.519-72-540595, while making misstatement/mis-declaration, with respect to her date of birth and on the basis of the forged CNIC No.42501-4175757-8, she obtained Passport No.KB-9917571 and after completion of said investigation, challan against her was submitted before competent Court U/s.6(1)(a)(c)(f) Passport Act, 1974. It was further submitted that during investigation the I.O requisitioned the Form 'B' of the Head of the family namely Abdul Sattar Arian s/o. Abdul Karim Arain from DRO Naushehro Feroze, and found that the date of birth of accused Mst. Rubina Sattar d/o. Abdul Sattar Arian as 02.08.1968, which was subsequently altered as 02.08.1972, and she obtained NIC No.519-72-5400595, CNIC No.42501-4175757-8, and passport

No.KB-9917571. It has been further averred in the said complaint that Abdul Ahad Arain was also shown in Form 'B' when he first registered his wife Ms.t Hanifa Sattar and daughter Mst. Rubina Sattar and got their NIC numbers, then he also registered Samina Sattar, Tehmina Sattar, Mubushar Sattar and Abdul Ahad Arian in under 19 years of age column alongwith their education. However, Mst. Tehmina Irfan obtained CNIC No.42301-2892419-0, and she declared her date of birth as 07.09.1985. Thereafter, Mst. Tehmina obtained passport No.BB-1984191 on the basis of the forged CNIC and Abdul Ahad Arain also obtained Passport AG-1994381 on the basis of forged CNIC and committed the same offence which was committed by the lady accused Mst. Rubina Sattar against whom charge sheet was submitted before the Court of law. It was prayed that further investigation may be carried out and charge sheet may be submitted before the competent Court for action according to law and their passport No.BB-1984191 and Passport No.AG-1994381 may be placed in PISCES System so that they may be intercepted as and when they arrive at the airport.

3. Learned trial Court after hearing the parties, acquitted / Respondents No.2 to 4 by judgment **30.8.2018**. Therefore, the appellant / complainant has filed the instant Criminal Acquittal Appeal.

4. I have heard the appellant present in person and perused the record.

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

“.....Perusal of the evidence adduced by the prosecution witnesses supported with the material produced before this Court, has revealed that, first, only photocopies of all the documents

have been produced and no original document has been produced before this Court, hence it is secondary evidence which could not be believed as truth. It is also pertinent to mention here that I.O had submitted the Challan, without collecting the original documents from the concerned departments which were supposed to be produced before this Court at the trial to prove the allegations transparently. Secondly, section 420 PPC has been incorporated before this Court but the complainant has been unable to discharge the burden upon him as to what loss he has suffered due to the act of the accused persons.....

The above observation of the trial Court for acquittal of respondents No.2 to 4 are also based on several judgments of superior Courts specifically mentioned in the impugned order. The appellant has not even suggested that the case law referred by trial Court was not relevant in the case of respondents No.2 to 4.

6. 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