

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No.235 of 2018

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

Appellant : Amin Akber Ali, through
Ms. Humaira Junaid, advocate holding brief
for Ms. Uzma Zahid, advocate.

Versus

Respondent No.1 : Javed Lakhani,
Respondent No.2 : Essa Khan
Respondent No.3 : Amin Muhammad
Respondent No.4 : Aslam,
Respondent No.5 : Malik Mehdi Muhammad,
Respondent No.6 : Barkat Ali,

Respondent No.7 : Xth Judicial Magistrate

Ms. Rahat Ahsan, Addl. P.G for the State.

Date of hearing : **12.04.2019**

Date of decision : **19.04.2019**

JUDGMENT

NAZAR AKBAR, J:- This Crl. Acq. Appeal is directed against the judgment dated **15.02.2018** passed by the Judicial Magistrate-X Central, Karachi in Case **No.1634/2015** whereby the trial Court has acquitted Respondents No.1 to 6 by extending them benefit of doubt.

2. Brief facts of the case as narrated in FIR are that the complainant is resident of Flat No.216, Building K-5, Karimabad, Block No.3 F.B. Area, Karachi for the past fifteen years. Two month prior on social media the complainant liked a page on face book. On 07.08.2015 at about 11:15 pm some persons has knocked his door the complainant came out his house and saw Barkat Balouch, Amen Bazwani, Malik @ Labma, Essa Khan, Javed @ Microsoft, Aslam Gawardari and three other unknown persons were standing. As the complainant came out his house the accused person started beating

him and used filthy language and extending threats of killing him. They also threaten the complainant to damage his reputation. The complainant also sustained scratches on his body. Such incident was also witnessed by people of the colony. The complainant also claimed to have video of the incident. Hence this FIR.

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

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

.....“The complainant admitted that on 12.08.2015 the accused person namely Barkat Ali, Essa, Malik had filed an application to the SHO PS Azizabad for alleged unethical conduct of him. He also admitted that on 18.08.2015 an application U/s.22/A Cr.P.C was pending against him of the accused persons. He also admitted that the accused Javaid has filed a CP against him. From such admissions of the complainant the previous enmity of the complainant and the accused persons has been sufficiently established. It appears that the present complainant has lodged instant FIR on 17.08.2015 as a counter blast of the application of the accused persons namely Barkat Ali, Essa and Malik dated 12.08.2015 against the present complainant. It is also pertinent to mention here that the complainant has not been able to produce any evidence to show the motive of the beating at the hands of the present accused persons.

It has been held in case law reported as 2011 YLR 2157 that conviction must be based on unimpeachable evidence and certainty of guilt and any doubt arising in the prosecution must be resolved in favour of the accused. It has also been held in case law reported as 2009 SCMR 230, 2012 YLR 251 (Sindh) that for giving benefit of doubt to an accused their need not be a number of circumstantial evidence to prove the innocent of the accused. Even a circumstance and slightest doubt and infirmity or evidence appearing to a prudent mind creating doubt is more than enough”.....

The above observation of the trial Court for acquittal of respondents No.1 to 6 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.1 to 6.

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

SM