

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
**Crl. Acq. Appeal No.78 of 2019**

Date	Order with signature of Judge
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1. For orders on office objection & reply of Adv at flag 'A'
2. For orders on M.A. No.1971/2019 (Ex/A)
3. For hearing of main case

**01.04.2019**

Khawaja Muhammad Azeem, advocate for the Appellant.

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**Nazar Akbar.J.-** This Crl. Appeal is directed against the order dated **13.12.2018** passed by the learned XIV-Civil Judge & J.M (East) Karachi, in **JM Case No.2232/2015** whereby the trial Court has acquitted Respondents No.1 to 5 from the charge U/s.245 (i) Cr.P.C.

2. Brief facts of the prosecution case as per FIR are that on 11.07.2015 the complainant Allah Bux Abbasi s/o. Bari Khan lodged the FIR alleging therein that on 09.01.2015 he had purchased a plot No.524 admeasuring 120 sq.yds situated in Chishti Nagar through sale agreement from Kamal Hussain s/o. Sabir Hussain in the sum of Rs.8,50,000/- and spent Rs.350,000/- on its construction and started residing there, on 21.04.2015 he was present in his house alongwith his family at about 1800 hours the accused persons Qayoom Rindh, Tanveer Ahmed Lakho, Kamal Hussain, Sarfraz, Fareed, Sattar, Ashiq Thaheem, Ibrahim and Muhammad Ali, addressed the complainant with abusive language and started throwing out the articles of the house of the complainant and stolen the four tola gold, cash Rs.48000/-, prize bonds of Rs.10,000/- and thrown the complainant from the above house, the complainant inquired from the accused Kamal Hussain who replied that they have sold out the plot to someone else and asked him to make his arrangement somewhere else, there the complainant realized that the

accused persons have committed cheating with him and they had entered into forged agreement with him and taken the amount from him.

3. Learned trial Court after hearing the parties, dismissed the complaint by order dated **13.12.2018**. Therefore, the appellant / complainant has filed the instant Criminal Acq. Appeal.

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

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

“.....All the above contradictions in the statements of the prosecution witnesses has made whole story of the prosecution doubtful. It is also a settled law that prosecution is bound to establish guilt against the accused without shadow of 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 prudent 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 favor of accused.....

The above observation of the trial Court for acquittal of respondents No.1 to 5 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 5.

6. In view of the above, since remedy is available to the appellant to file civil proceeding, therefore, this Crl. Appeal is dismissed alongwith listed applications.

JUDGE

*SM*