

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CrI. Acq. Appeal No.576 of 2018

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

Appellant : Syed Usman Mustafa Shah,
through Mr. Rehman Dino Mahesar, advocate.

Versus

Respondent No.1 : Adam Jokhio,
Respondent No.2 : Sabir,
Respondent No.3 : Doozan,
(Nemo)
Respondent No.4 : The State,
Respondent No.5 : Ist, Addl. Sessions Judge Malir, Karachi.

Ms. Seema Zaidi, D.P.G for the State.

Date of hearing : **23.04.2019**

Date of decision : **10.05.2019**

JUDGMENT

NAZAR AKBAR, J:- This CrI. Acq. Appeal is directed against the judgment dated **27.09.2018** passed by the Ist Addl. Sessions Judge Malir, Karachi, in Direct Complaint **No.02/2018** whereby the trial Court has acquitted Respondents No.1 to 3 by allowing their application under **Section 265-K** of the Cr.P.C.

2. Brief facts of the case are that applicant is owner of the land by way of purchase from one Younis Butt through sale agreement dated 08.11.2006 and he is running business of sale and purchase of land. He further alleged that some people with bad intention came to occupy his land with ulterior motives and started claiming to be owner of the land and raised slogans in favour of Haji Adam Jokhio with the result complainant to resolve the matter went to the Court to get stay of third party interest against the said persons who became angry with the complainant. Complainant further alleged that on

08.06.2015, captured these persons at Safoora Chowrangi who introduced themselves as Sabir and Doozan sons of Haji Adam Jokhio and two unknown persons fled away due to rush of public. Complainant tried to talk with them to resolve the problem but due to the support of Home Government they refused to settle the matter. Complainant further alleged that after receiving big torture on **18.12.2017 at 05:30 PM**, complainant was going to attempt horse race club when he reached at Safoora Chowrangi 2 to 3 unknown person started indiscriminate firing in return of firing from the guards of complainant the culprits ran away, while going they said Peer Sahab will not let you live and raised slogans of Haji Adam Jokhio. Then the complainant approached PS Malir Cantt but the SHO refused to lodge the FIR, hence the complainant lodged the present complaint. The respondents after framing of formal charge filed an application under Section 265-K of the Cr.P.C. It was allowed by the impugned order, hence the instant appeal.

3. I have heard the learned counsel for the appellant and learned D.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 in para No.8 of the complaint alleged that **on 08.06.2015 capture persons at Safoora Chowrangi, they introduced their names as Sabir and Doozan sons of Adam Jokhio and two unknown persons who fled away**”, but the complainant not assigned any specific role against the accused and also not disclosed that what offence was committed on the said date.

Apart from above complainant in his para No.10 alleged that **That after receiving big torture on 18.12.2017 at 05:30 pm Applicant/Complainant was going to attend Horse Race in Race Club, when Applicant/Complainant reached at Safoora Chowrangi, 2 to 3 unkown persons started in-**

discriminatory. In return of firing from the Guards, the culprits escaped” but the complainant neither named the present accused nor disclosed their any specific role so also the names of witnesses Nasrullah & Chanesar.

The complainant in his statement under Section 200 Cr.P.C before Civil Judge & Judicial Magistrate-IV Malir, Karachi stated that 2/3 unknown persons started in discriminatory firing on him and they threatened him, the driver of the accused persons was captured by the police who disclosed the names of accused Sabir & Doozan but such facts are not mentioned in the complaint. The evidence of complainant Syed Usman Mustafa Shah under Section 200 Cr.P.C is contradictory to (contents of) complaint, PWs have also not corroborated the version of complainant”.....

The above observation of the trial Court based on evidence was enough for acquittal of respondents No.1 to 3.

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