

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Cr. Acq. Appeal No.181 of 2017

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DATE            ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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1. For orders on M.A. No.43398/2017 (Ex/A)
  2. For hearing of main case.
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**09.04.2019**

Mr. Muhammad Farooq, advocate for the appellant.  
Mr. Hassan Abidi, advocate for Respondent No.1.  
Ms. Seema Zaidi, D.P.G for the State.

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**NAZAR AKBAR, J:-** This Crl. Acq. Appeal is directed against the judgment dated **25.02.2017** passed by the XXth Civil Judge & Judicial Magistrate East, Karachi in Criminal **Case No.873/2010** whereby the trial Court has acquitted Respondent No.1 by extending them benefit of doubt.

2. Brief facts of the prosecution case are that on 06.05.2008 at 1720 hours, the complainant Haji Zangi Khan son of Sardar Abdul Khan, registered present FIR at police station Ferozabad, Karachi, wherein it is stated that he had hired the services of Ikram Rashid son of Syed Muhammad Rashid and Mirza Khalid Baig son of Shaukat Baig for renovation of his house, who were running construction and Consultancy Firm in the name and style of Khalid & Iqbal Consultants. The complainant stated that he hired the services of accused under agreements executed on 10.04.2007 and 10.09.2007 under the estimated costs/agreed amount of Rs.37,00,000/- (Rupees Three Million Seven Hundred Thousand), the work was to be completed within period of six months. Accused did not start the work as agreed and even after lapse of six month time, they did not finish the agreed work, whereas in his absence accused persons took out (1) 29 doors out of which 26 doors were alongwith

solid Dayar Wood, 6 door were alongwith solid Sheshum Wood, (2) 19 Aluminum windows affixed with imported glasses, (3) 480 feet black colour Granite with nut bolt affixed on walls, (4) 59 Electric Switches alongwith 5 Bathroom Sanitary fixtures, (5) 11 ceiling fans and (6) 16 iron grills affixed on the windows of house, all worth Rs.17,90,000/- (Rupees One Million Seven Hundred Ninety Thousand), there misplaced by these contractors in his absence without his consent. When complainant inquired from accused as to their reasons for not starting their work and as to the things accused informed him that they have these things and they have kept these things at some other place and would sell these items alongwith him and would spend its money on his house and took from him a Pay Order of Rs.2,50,000/-. The accused persons had put one skilled and one unskilled laborer at the bungalow, of the complainant, who worked for some time amounting to Rs.80,000/- and thereafter they stopped working. The complainant met with accused Mirza Khalid Baig, who gave him in writing that he had taken away material of the complainant worth Rs.17,90,000/-. As per complainant accused persons cheated him by inducement as to renovation of his bungalow and acquired contract of construction and renovation. The accused not only had usurped all the material but had also taken away his money of Rs.2,50,000/- hence, accused under the grab of contract have cheated him and committed offence of criminal breach of trust, as such present FIR was registered.

3. I have heard the learned counsel for the appellant and Respondent No.1 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:-

.....“As regards section 380 PPC is concerned, there is main allegation of complainant that doors etc of his house was taken away by the accused but there is no eye witness of the incident. It is admitted position that house was handed over by complainant for renovation purpose means even if it is admitted that some kind of work of structure was done by accused it will not be case of theft because admittedly they were given possession of house legally by complainant himself but if work was not completed within time or not properly done that is other thing”.....

The above observation of the trial Court for acquittal of respondent No.1 is 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 respondent No.1.

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