

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No.271 of 2019

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

Appellant : Muhammad Ashraf,
through Mr. Muhammad Hanif Qureshi,
advocate.

Versus

Respondent No.1 : Muhammad Siddique,
Respondent No.2 : Muhammad Ishtiaque,
Respondent No.3 : The State,

Date of hearing : **14.05.2019**

Date of decision : **20.05.2019**

JUDGMENT

NAZAR AKBAR, J:- This Crl. Acq. Appeal is directed against the judgment dated **01.04.2019** passed by the VIIIth Judicial Magistrate Malir, Karachi, in Private Complaint **No.01/2017** whereby the trial Court has acquitted Respondents No.1 & 2 by extending them benefit of doubt.

2. Brief facts of the case are that complainant claims the dispute property belong to him and with the permission of his uncle in law Muhammad Imran (Late) it was constructed joint with the accused persons in the house on an open space which the complainant has been operating/running since last 40/45 years. The dispute between parties on the owner of shop took place on 11.04.2011 and a complaint for which was lodged by the complainant at PS Qaidabad. After receipt of medical report a FIR No.171/2011 was registered under Section 337-A(IV) PPC against both the accused persons. Besides this as the dispute between both relates to the ownership and possession of dispute of shop which was bone of contention of

instant case and both parties have put their respective lock on the shutter of disputed shop for which a separate report U/S 107/117 Cr.P.C was prepared through 145 Cr.P.C was submitted for legal proceeding according to law further was put off to 24.09.2016 with the order of court and said sealed shop was de sealed in accordance with law and its physical possession handed over to the complainant but the grocery items/articles as per inventory list were missing / disappeared from the said shop thereby with common intention committed an offence hence this complaint.

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

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

.....“that various lacunas and discrepancies are noticeable from the evidence adduce by the prosecution which are as the instant complaint was filed against the present both persons, besides this the complainant had improved his version and no any private witnesses so far had produce and only complainant himself examined as interested and related to complainant and without the corroboration of any independent evidence which also creating doubt in the prosecution version, therefore, hereinabove discussion creating doubt in the instant case non production of independent and disinterested witness by the prosecution would give rise to inference that complainant had suppress the truth and came out with its own prejudice version of occurrence.

The statements of complainant who is not inconsistent and not forming the chain of connection of commission of incident with the complainant story and had never challenged the testimony and many contradiction and discrepancies are available since inception of the case till the adjudication of the case each piece of evidence should be proved to hilt”.....

The above observation of the trial Court based on evidence was enough for acquittal of respondents No.1 & 2.

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