

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Acq. Appeal No.539 of 2017

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

1. For orders on M.A No.11381/2017 (Condonation of delay)
 2. For orders on office objection as at flag 'A'.
 3. For orders on M.A. No.11382/2017 (Ex/A)
 2. For hearing of main case.
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12.04.2019

Khawaja Muhammad Azeem, advocate for the appellant.

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NAZAR AKBAR, J:- This CrI. Acq. Appeal is directed against the judgment dated **12.09.2017** passed by the XXth Civil Judge & Judicial Magistrate East, Karachi in Criminal **Case No.2118/2014** whereby the trial Court has acquitted Respondents No.2 to 5 by extending them benefit of doubt.

2. Brief facts of the prosecution case are that on 29.07.2014 at 17:45 hours, the complainant namely Hassan Mehmood went to Sonia General Store situated at Sector 35/A, Zaman Town for purchasing some stuff. There was a person namely Mehmood was standing and he abused and beaten the complainant, meanwhile accused persons companion namely Irfan, Siraj and Imran also reached over there and they also started to beat the complainant and hit him something on right side of neck and on nose and he got external and internal injuries then he made hue and cry some persons gathered and watched this incident and try to resolve the matter, thereafter, the accused persons went away from there and the complainant went to his house and on suggestion of his family members the complainant got register the FIR.

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:-

.....“The most important factor which created doubt the prosecution story is that incident admittedly had taken place on 29.07.2014 and as per evidence of complainant his nose was fractured but he has recorded his N.C on 30.07.2014 and appeared before the doctor on 31.07.2014 such delay in presence of admittedly previous dispute between the parties cannot be considered as a good piece of evidence against the accused.

Moreover incident had taken place at Sonia store shop but admittedly I.O has not examined the owner of the shop nor other witness of the locality as admitted by him in the court, as the contrary accused has examined his defence witness namely Muhammad Faisal who has deposed on oath that on the day of incident he was present at the shop which was opened by him at 17:20 hours and closed at 10:00 PM and in between that time no such incident had taken place both parties of the case are known to him but they were not present there as alleged by the complainant, therefore keeping in view the above circumstances I am reaching at conclusion that the prosecution has failed the case of the prosecution is dubious in nature therefore, prosecution failed to prove his case beyond any reasonable doubt”.....

The above observation of the trial Court for acquittal of respondents No.2 to 5 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 respondents No.2 to 5.

5. In view of the above, no case is made for interference in the impugned judgment by this Court, therefore, this CrI. Acq. Appeal is dismissed alongwith listed application.

JUDGE