

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Crl. Acq. Appeal No.97 of 2017**

Date	Order with signature of Judge
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For hearing of main case.

**Present: Mr. Justice Nazar Akbar**

Appellant : Syed Ghayaz Javed, Manager K-electric  
Through Mr. Malik Khushhal Khan, advocate

Respondent No.1 : The State  
Through Ms. Rahat Ahsan, Addl. P.G

Respondent No.2 : Fahim Khan. (Nemo)

Respondent No.3 : Judicial Magistrate-XI Karachi South (Nemo)

Date of hearing : 27.07.2018

Date of decision : 27.07.2018

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**JUDGMENT**

**NAZAR AKBAR, J:-** This Crl. Acq. Appeal is directed against the judgment/order dated **24.12.2016** passed by the learned XIth Civil Judge and Judicial Magistrate, Karachi South in case No.3715/2016 arising out of FIR No.133/2016 U/S 39 of Electricity Act, 1910, registered at P.S KESC, Karachi.

2. Brief facts of the case are that on **19.8.2016** at about 1700 hours K-Electric team inspected electric meters after observing all formalities as per NEPRA Act installed at plot No.D-2/102, Akhtar Colony and found the said meter stopped. On further checking it was found that electricity was being consumed inside said building by applying illegal direct connection through PVC Kunda wire 7/44 MM cable, team has also taken photographs from the spot and seized the cable being used for theft of electricity. On **24.8.2016** complainant Ghayas Javed, Manager, K-Electric, IBC Defence-R-II lodged such FIR at P.S KESC.

3. After completion of investigation the IO has submitted charge sheet against accused person. Formal charge was framed U/S 242 Cr.P.C vide Ex.2 to which he pleaded not guilty and claimed trial as per plea Ex:2/A.

4. In order to prove its case, prosecution has examined **PW-1** complainant Ghayas Javed who produced Inspection Notice at Ex:3/A, memo of Site Inspection Report at Ex: 3/B, Photographs at Ex:3/C, FIR at Ex:3/D, Seizer memo of Wire at Ex:3/E, memo of Site Inspection place of incident at Ex:3/F. **PW-2** Qurban Ali at Ex:4. **PW-3** Muhammad Asif Khan at Ex:5, **PW-4** ASI Abdul Wahid, I.O of the case. Thereafter learned SPP, KESC, K-Electric has closed the side of prosecution for further evidence vide statement placed on record at Ex:6.

5. The statement of Respondent No.2/accused was recorded at Ex.7 accused has denied the allegations, pleaded his innocence and has stated that complainant involved him in a false case as he was demanded to pay illegal gratification. He further stated that the FIR has been lodged after delay of 5 days.

6. After examination of witness and hearing learned counsel for the parties, learned XIth Civil Judge and Judicial Magistrate, Karachi South acquitted Respondent No.2/accused by extending him benefit of doubt U/S 245(I) of Cr.PC. thereafter the appellant/K-Electric has filed instant Cr. Acq. Appeal through their Manager against the said order.

7. I have heard learned counsel for the appellant as well as learned Additional P.G and perused the record.

8. From perusal of record and evidence of the parties, it appears that this was a case of no evidence for prosecution against Respondents No.2. The following observations of trial Court are worthy of taking note of:-

*The contradictions and infirmities in prosecution evidence which are crystal clear from bare reading are sufficient enough to rupture the case and created doubts in prosecution case. Finally I have come to the conclusion that case of prosecution has not proved beyond any shadow of doubt and same is answered as doubtful in nature. In case law reported as NLR 1997 CrLJ 142 Honourable High Court of Sindh held that it is not necessary under law that there should be several circumstances to create a doubt in prosecution case. Even one circumstance which creates a reasonable doubt would be sufficient to entitle accused to acquittal.*

9. In view of the above observation, the learned trial Court has rightly acquitted Respondent No.2. Accordingly, instant Crl. Acq. Appeal is dismissed and these are the reasons for the same.

JUDGE

Karachi  
Dated: .7.2018

*Ayaz Gul/PA*