

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD**

Cr. Acquittal Appeal No. S- 146 of 2020

DATED	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on M.A No.5237/20.
2. For orders on office objection.
3. For orders on M.A No.5238/20.
4. For hearing of main case.

17.08.2020

Mr. Muhammad Shafique Khan, Advocate along with appellant.
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ABDUL MAALIK GADDI, J- This Cr. Acquittal Appeal is directed against the judgment dated 18.07.2020 passed by the learned Model Trial Judicial Magistrate-I, Hyderabad, in Criminal Case No.1769 of 2019 arisen out of Crime No.112 of 2016 registered U/S 454, 457, 380, 448, 506(ii), 504, 381-A & 34 PPC at PS Bhitai Nagar Hyderabad, whereby the trial Court after full dressed trial acquitted the accused / respondents by giving them benefit of doubt.

2. The allegations against respondents / accused are that on 03.09.2016 the complainant went his brother's house along with his family situated at Razzak Villas after locking his house and on next date i.e. 04.09.2016 complainant along with his cousin namely Faisal came at his house found that the lock of the main door was open from outside and the same was locked from inside. Complainant knocked the door, where upon respondents / accused along with an unknown person having deadly weapons were found inside and abused the complainant and issued threats for dire consequences.

3. The Prosecution in order to substantiate the charge against the respondent / accused, examined the following five (05) witnesses:

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| PW-1: | Investigating Officer SIP Ali Asghar at Ex.4. |
| PW-2: | Complainant Yasir Mughal examined at Ex.5. |
| PW-3: | Author of F.I.R namely SIP Zahoor Ahmed examined at Ex.6. |
| PW-4: | Mashir of place of incident Shah Faisal examined at Ex.7. |
| PW-5 | Witness namely Faisal Mughal examined at Ex.8. |

All the above named witnesses have been cross-examined by Learned ADPP for State.

4. Learned trial Court after hearing the respective parties acquitted the respondents /accused under Section 245(i) Cr.P.C as stated in the preceding paragraph; hence, this Cr. Acquittal Appeal.

5. It is argued by learned counsel for the appellant that impugned judgment passed by the learned trial Court is against the law and fact is liable to be set-aside and the respondents should be given exemplary punishment. He further submits that all the witnesses examined in this case by the trial Court has supported the version of the complainant and evidence shows that the respondents have committed offence and prosecution has proved its case without any reasonable doubt but the trial Court has delivered the judgment in favour of the respondents without assigning any valid reason.

6. I have heard the learned counsel for the appellant and perused the evidence and document so brought on record.

7. It is noted that the alleged incident as per F.I.R took place in between 03.09.2016 & 04.09.2016, whereas the same was registered on 15.12.2016 by the complainant Yasir Mughal after the delay of more than three (03) months for which no satisfactory explanation has been furnished. During the course of arguments, i have specifically asked the question from learned counsel for the appellant to explain the delay in lodgement of F.I.R, but he has no plausible answer with him, therefore, on this ground alone false implication of the respondents / accused with due deliberation and consultation could not be ruled out. Even otherwise, the material available on record clearly shows that no any tangible evidence has been produced in the trial Court which shows that alleged articles and vehicle, shown in the F.I.R, have been robbed by the respondents / accused as no any recovery has been effected in this case. Furthermore, the statements of all P.Ws are contradictory and doubtful. It is also a matter of record that there was civil dispute in between both the parties and the complainant / appellant in order to pressurize the respondents / accused lodged instant F.I.R. Moreover, prosecution has failed to produce any witness who seeing the accused while occupying or vacating the house of complainant. It also appears from the record that as per F.I.R the respondents / accused occupied the house of complainant on 03.09.2016, but he did not approach the Court or any

other forum for vacating the same and waited for 16 days until accused themselves left / vacated the house; therefore, this aspect of the case is not acceptable to a prudent mind.

8. I have gone through the impugned judgment and found that the learned Presiding Officer of trial Court has dealt with all aspects of the matter quite comprehensively in light of all the relevant laws dealing with the matter and now before me, the appellant was unable to demonstrate that the impugned judgment by any means suffers from any illegality or miscomprehension or non-appreciation of evidence by way of documents available on record. The respondents have been acquitted of the charge by learned Presiding Officer on the grounds as stated *supra* and the appellant has not been able to satisfy this Court on either of the grounds as mentioned in the memo of appeal to interfere in the impugned judgment.

9. Considering all the above aspect of the case, i have come to the conclusion that the trial Court has rightly extended the benefit of doubt in favour of the accused / respondents and the impugned judgment dated 18.07.2020 contain valid reasons for extending benefit of doubt to the respondents; therefore, the same does not require any interference by this Court. Resultantly, I found no merit in this appeal which is accordingly ***dismissed*** in ***limine*** along with listed application[s].

JUDGE

****Hafiz Fahad****