

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Acq. A. No.S- 263 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on office objection.
- 2. For hearing of main case.

27.01.2020

Mr. Muhammad Nadeem Tagar Advocate, alongwith the appellant.

Respondent No.2, Muhammad Punhal, is present in person.

Mr. Shahid Ahmed Shaikh, D.P.G.
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ABDUL MAALIK GADDI,J.- This criminal acquittal appeal is directed against the order dated 11.11.2017, passed by the learned Special Judge, Anti-Corruption (Provincial), Hyderabad, in Special Case No.34 of 2016 (Re: Muhammad Ishaque Lakho V Muhammad Punhal Khaskheli and others), whereby respondents were acquitted of the charge under section 249-A Cr.P.C.

2. It is alleged by the appellant that accused Muhammad Punhal purchased the property through registered sale deed and in such sale deed according to the appellant, he has been shown to be one of the witnesses together with co-accused Qurban Ali. By alleging so, he sought for prosecution of the accused / Respondents for above said impersonation, fraud and forgery.

3. It is contended by learned counsel for the appellant that impugned order passed by the learned trial Court is perverse and the reasons are artificial viz-a-viz the evidence and documents on record that the grounds on which the trial Court proceeded to acquit the respondents are not supportable from documents and evidence on record. According to him, Respondents have committed fraud after acceptance of bribe. As the property at the time of its sale was mortgaged with the Bank hence it was not subject to sell, therefore, the appellant / complainant has

sustained loss to his reputation as he was shown to be one of the witnesses to the said sale deed.

4. On the other hand, Respondent No.2, who is present in Court, submits that no fraud or forgery was committed with the appellant; that the registered sale deed is intact, the instant complaint has been filed by the appellant / complainant to satisfy his grudge on account of pendency of civil litigation. By saying so, he supported the impugned order passed by the trial Court and further submits that the said order is perfect in law and on fact, therefore, need not to be interfered.

5. The learned D.P.G has not supported the impugned order by stating that impugned order has been passed on application under section 249-A Cr.P.C. moved by the respondents on a hasty manner and according to him, there was sufficient material available before the trial Court to proceed with the matter and decide the same on merits but it did not do so.

6. I have heard the learned counsel for the appellant, Respondent No.2 in person and learned D.P.G appearing for the State and have perused the material so brought before me.

7. The only grievance of the appellant is that he has been shown as a witness to registered sale deed and the property at the time of its sale was mortgaged with the Bank as such it was not subject to sell. I am not impressed with this argument for the reasons that if the appellant having a feeling that he did not attest the registered sale deed and the property was not subject to sell as it was mortgaged with the Bank then he ought to have sought for such declaration from civil Court having jurisdiction in accordance with law. It is noted that the registered sale deed was executed on 08.10.2007 whereas the direct complaint was filed in the year 2016 almost after 09 years and for such an inordinate delay no plausible explanation has been furnished. If appellant believed that he

had sustained damages to his reputation then he could sue the present respondents for recovery of damages before the Court having jurisdiction. Perusal of direct complaint filed by the appellant and the documents available on record, shows that apparently appellant has no case to file the direct complaint involving the official as well as respondents under the pretext that they had committed fraud and forgery after acceptance of bribe. No convincing evidence is available on record to show that respondents have committed any fraud with appellant.

8. Considering all the above aspects of the case I have come to the conclusion that the trial Court has rightly passed the impugned order in favour of the Respondents, which contains valid reasoning for their acquittal; therefore, the impugned order does not require any interference by this Court. I may further observe here that there is clear distinction in appeal against conviction and appeal against acquittal. It is settled law that accused who have been acquitted in a crime can claim double presumption of innocence one at the pre-trial stage and the other he / they may earn on the basis of judgment of acquittal in his / their favour from the Court of competent jurisdiction. The competent Court in the instant matter has already acquitted the respondents by detailed order after examining the entire record, therefore, I see no reason to interfere with the same. Consequently, instant appeal against acquittal is hereby dismissed alongwith pending application(s), if any.

JUDGE