

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Crl. Appeal No. 112 of 2022.

Date	Order with signature of Judge
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1. For orders on Misc. No.2160/2022 (U/ A)
2. For orders on Misc. No.2161/2022 (Condonation of delay)
3. For orders on office objection a/w reply at flag "A".
4. For orders on Misc. No. 2162/2022 (Ex./ A)
5. For hearing of main case.

23rd February 2022.

Mr. Bakht Azam, advocate for the appellant.

Heard and perused record.

Being conducive paragraph 28 is reproduced herewith:-

"It is the claim of the complainant he was dispossessed by the accused persons on 08.07.2018 and he has also lodged FIR against the accused persons. It appears that memo of complaint is silent about the names of any witnesses in whose presence the complainant was dispossessed. From the perusal of available material and record and evidence of both parties recorded before this Court and documents filed with instant complaint, it appears that complainant has failed to prove that he had ever been in possession of property in question and he was dispossessed. On the other hand, sufficient material has come on record in support of accused persons Mst. Shamim Bano, Saeed Ahmed and Mst. Saima Bano that they had been in possession of the subject plot much prior the alleged date of dispossession as claimed by the complainant. It also appears that accused Saeed Ahmed has constructed the property in question and has been residing with his family. It appears that complainant alleged that he was in possession and got constructed the boundary wall and one room but perusal of evidence of witness of the complainant namely Ziauddin shows that he has admitted that such construction was made by the accused party. Said Ziauddin has also admitted that complainant was not residing at the subject suit property. It appears that witness No.2 of the complainant Waqas Ahmed has also admitted that complainant was not residing at the subject plots in question. It appears that in support of the claim of accused persons DW Muhammad Hussain and DW Abdul Wahab Hashmi both have deposed that family of Saeed Ahmed is residing in the subject plot for last 8 to 9 years. Meaning thereby the family of accused Saeed Ahmed are residing in the subject plots for last 8 to 9 years i.e. much prior from the date of alleged dispossession. No doubt, both the parties are in possession of title documents in original. It appears that the complainant produced Transfer Order dated 22.11.2018 which shows that he has obtained after filing of this direct complaint while the documents produced by the accused party shows that same are old one compare to the documents produced by the complainant. Both the parties are claiming to be owner of property in

question. The documents in possession of both the parties reflects that it required further evidence to determine as to who was the real owner and admittedly such controversy over ownership between parties could only be decided at the civil forum. The case before this Court was only to determine whether the complainant had been dispossessed or not. From the available material and record, it appears no offence of dispossessed the complainant was committed by accused persons as such point under discussion is answered in negative.”

Admittedly after full-fledge trial, accused persons were acquitted by the learned trial Court in a complaint registered under illegal Dispossession Act. The reason as assigned by learned trial Judge particularly witness of the complainant Waqas Ahmed stated that complainant was not residing at the subject plot in question. Under these circumstances, this is not a case to be termed as shocking, perverse and illegal, which requires interference by this Court. Instant Criminal Appeal stands dismissed alongwith listed applications. Parties would be at liberty to pursue their civil remedy before the competent court.

J U D G E