ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI Crl. Acq. Appeal No. 310 of 2012.

Date Order with signature of Judge

For hearing of case.

14.05.2018

Mr. Qadir Hussain Khan, Advocate for Appellant. Mr. Abrar Ali Khichi, Deputy P.G. Sindh.

Heard and perused the record.

At the outset, it would be conducive to refer paragraph No. 12 of

the impugned order, which is as under:

"12. I've anxiously gone through the material available on record so also arguments so advanced on behalf of both the sides in pursuance to relevant laws. Upon scrutiny of the record, it is revealed that the accused/respondent No.1 was wife of the very complainant and there is nothing on record to show that she had been living in the subject property being wife of the complainant. The complainant, in his examination in chief at his own deposed that when he allegedly divorce the accused/respondent No.1, she was living in the subject property. Likewise, during his cross-examination, the complainant admitted that after sending of written talaqnama to accused/respondent No.1, she was in iddat period and due to his divorce to Shahnaz/accused, he could not live in the same premises with her. From this statement as well as admission of the complainant in his examination in chief and cross-examination, respectively, it is clearly depicted that the accused/respondent No.1 was not entered into the subject property illegally and/or by force, but as of legally wedded wife. The question which requires to be probe into before this Court as to whether the complainant had been dispossessed by the accused persons on the alleged date or not. A glance at the sole evidence of the complainant, I may say that it is not confidence inspiring and there are material contradiction in his statement. It is relevant to mention here that the complainant in his crossexamination admitted to a suggestion that in the complaint it is not mentioned that on what date and time, he was dispossessed from the subject premises. Besides, the claim of alleged dispossession of the complainant at the hands of accused persons, has not been supported by any independent witness of the vicinity, which could easily be procured, but not, resulting emergence of doubts to a prudent mind. On the contrary, the evidence of defence witness namely Anum is of vital significance on the score that this witness is daughter of the complainant so also of accused/respondent No.1. She in her evidence before this Court categorically denied that the complainant was dispossessed by the accused persons, rather she deposed that the complainant since her child hood indulged in leaving the house on and off. Although, she was crossexamined by the learned counse3l for the complainant at length, however, her testimony remained stead-fast and no incriminatory fact brought on record during her crossexamination, which brings her statement shaky."

Perusal of above paragraph reflects that matter pertains to family issue between the parties. Appellant present, confirms that his ex-wife and only one kid/daughter are residing in the subject matter premises. Accordingly, this is not a case of forcibly dispossession; hence, instant Crl. Acquittal Appeal is dismissed. Appellant would be at liberty to avail remedy before the Civil Court.

JUDGE