ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI Crl. Acq. Appeal No. 266 of 2018.

Date Order with signature of Judge

1. For hearing of main case.

2. For hearing of M.A No. 3750/2018

21.05.2018

Mr. Khurram Shehzad, Advocate for the appellant. Respondent No. 1 in person. Mr. Abrar Ali Khichi, DPG.

It would be conducive to refer Paragraph No. 7 of impugned

judgment that;

"7. Admittedly, nowhere in his statement under section 154 Cr.P.C complainant stated that his other son PW-Rafiqu was also available at the place of occurrence. Another start witness of alleged incident who was subjected to beatings of accused was Fazal-e-Manan never appeared in the witness box nor supported the version of complainant in any manner is admitted position on record. Although, the complainant stated that PWs Shakeel, Liaquat Ali and other Mohalla people who had assembled at the place, witnessed the incident, but admittedly, none of them come forward to corroborate and support the version of complainant. During his cross-examination, on 28.11.2012 complainant admitted that "I have (am) not eye witness of this incident." During re-examination and cross on 24.09.2014, complainant again admitted that "It is correct that I had not seen the Akhtar Hussain by (while) firing upon Sardar Hussain." The injured PW-2 Sardar Hussain during his crossexamination on 06.02.2016 stated that "It is correct that my father (complainant) was not present at the time of **incident.**" If it is believed that complainant Wasil Khan was not present at the time of incident as deposed by his injured son then the evidence of the complainant would be nothing but hearsay. Complainant further admitted that accused party had lodged three FIRs against him, however, he showed ignorance from any G&W case No. 1123/2007 and Family suit No. 268/2007 pending before Xth Family Judge, Karachi West. However, in his earlier cross-examination, he did not deny pendency of these family matters but his instance was that same were though filed by the sister of accused are pending but same are not against him. He admitted lodging of FIR No. 373/2009 lodged by sister of accused and earlier FIRs 289/207 and 268/2007 pending before Xth J.M, Karachi West. All these facts clearly indicate long standing rifts, disputes and enmity between the complainant and accused party, where corroboration to

complainant's version is lacking from independent quarters. Another PW-Rafiqu whose name was never disclosed by complainant or even by injured Sardar Hussain appeared in the witness box and stated that on 24.04.2009 he along with Sardar Hussain and Fazal-e-Manan was in search of daughter of Zafar aged about 3 years, when this incident took place but none of the PWs confirmed his availability at the place of incident even if the medical evidence is taken into consideration, it shows the names of three injured as Sardar Hussain, Muhammad Wasil and Fazal Manan meaning thereby this is a planted witness, after the witnesses, whose names were earlier taken by complainant, refused to appear and support the case of complainant as such the case of prosecution is highly doubtful".

Perusal of above in juxtaposition of arguments raised by learned counsel for the appellant suffice to say that this judgment cannot be termed as shocking, perverse and illegal. Accordingly same is dismissed.

JUDGE

SAJID