

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

Cr. Appeal No.S-46 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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| 1. For orders on MA-941/2021 | |
| 3. For orders on MA-942/2021 | |
| 3. For orders on MA-2587/2016 | |
| 4. For hearing of main case. | |

02.12.2022.

Mr. Altaf Sachal Awan, Advocate for appellant alongwith appellant (on bail).

Mr. Shoukat Ali Kaka, Advocate for complainant.

Ms. Sana Memon, Assistant P.G.

ORDER

Through instant Criminal Appeal, appellant Khamiso Khan alias Riaz has assailed the judgment dated 31.03.2016 passed by learned IIIrd Additional Sessions Judge, Hyderabad in Criminal Complaint No.08 of 2013 (Re: Babar Aftab Siyal v. Khamiso Khan & others) whereby he has been convicted under Section 3(2) of Illegal Dispossession Act, 2005 and sentenced to suffer rigorous imprisonment for three years and to pay compensation of Rs.50,000/- to be paid to complainant as provided under Section 544 Cr.P.C.

During pendency of instant appeal, both the parties have filed applications under Sections 345(2) & 345(6) Cr.P.C. (vide MA Nos.941 & 942 of 2021) alongwith respective Affidavits and the contents of such Affidavits are affirmed by them. Learned Counsel for complainant / respondent submits that property in dispute has been handed over to complainant; therefore, the complainant with core of his heart has forgiven the appellant; hence, they have filed listed applications jointly and does not want to prosecute the appellant anymore. Learned Counsel for complainant; however, under instructions records no objection if listed applications are allowed and appellant is acquitted of the charge.

The appellant, who is present in person on bail, also submits that he has already put the complainant under peaceful and vacant possession of the land in suit and further he will not take law in his hands and will maintain harmony, peace and tranquility in the area. Hence, he submits that by granting listed applications the appeal may be disposed of and he may be acquitted of the charge.

Learned Assistant P.G Sindh present in Court waives notice of the listed applications and while placing his reliance upon the case of AKHTER HUSSAIN v. STATION HOUSE OFFICER SACHAL KARAH I and 02 others reported in 2020 P.Cr.LJ Note 20, records her no objection, if listed applications are granted.

Since the possession of land in dispute has been handed over to respondent/complainant; therefore, the complainant does not want to prosecute the appellant anymore; hence, he has entered into compromise with the appellant and has raised no objection for grant of listed applications as well disposal of the appeal accordingly. Learned Assistant P.G has also extended her no objection.

In view of above, it is observed that compromise entered into between the parties appears to be genuine, lawful and without any pressure or coercion from any side and that complainant has voluntarily forgiven the appellant / accused. Therefore, keeping in view the cordial relations between the parties in future, the compromise application under Section 345(2) Cr.P.C is hereby granted and application under Section 346(6) Cr.P.C is accepted. Consequently, impugned judgment dated 31.03.2016 is set aside and resultantly appellant is acquitted of the charge. He is present on bail; his bail bond stands cancelled and surety is hereby discharged. The present criminal appeal stands disposed of accordingly.

JUDGE

