

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

**Cr.Acq. Appeal No. 94 of 2021**

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Date	Order with signature of Judges
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- 1.For orders on M.A. No.1517/2021.
- 2.For orders on office objection as at flag 'A'.
- 3.For orders on M.A. No.1518/2021.
- 4.For hearing of main case.

**30.01.2023.**

None present for the appellant.

Ms. Seema Zaidi, Addl. P.G.

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**ARSHAD HUSSAIN KHAN, J.** Through this Cr. Acquittal Appeal, the Appellant has called in question the judgment dated 05.01.2021 passed by the Model Trial Magistrate Court / J.M-XVIIIth, Karachi-South in Criminal Case No.2417 of 2018 whereby the respondents No.1 to 3 were acquitted from the charge under Section 245(i) Cr.P.C, their bail bonds were cancelled and sureties were discharged.

Briefly, the facts giving rise to the present Appeal are that on 18.05.2018 Appellant / complainant lodged FIR No.144 of 2018, under Section 337-F(v)/504/506/34 PPC, registered at P.S. Defence, Karachi. In the FIR it was alleged that appellant / complainant was vice principal at American School; she had resigned her job of American School due to immoral activities of the Principal namely Kousar Amir but the principal had not accepted her resignation and had withheld degree of B.Com and two months' salary amounting to Rs.1,40,000/-. The complainant had filed application at P.S Boat Basin and RSTC against Principal Kousar Amir and her daughters namely Aisha Amir and Umaira Amir (all the three accused) whereupon Principal had asked head of administration namely Amir Majeed to resolve the issue. On 27.04.2018 the complainant was called upon by the respondents for negotiations of settlement however, when the complainant reached at the pointed place she was maltreated and beaten up by the

respondents. They also extended threats for dire consequences to the complainant. Subsequently, the complainant reached to the police station and after obtaining letter for medical examination FIR was lodged.

From the record it appears that after a full dressed trial, learned trial court, keeping in view the evidence produced by the prosecution acquitted respondents No.1 to 3. Record also reflects that the Appellant / complainant had not examined her private witnesses namely Mst. Saira Mughal (mother of the complainant) and Mr. Amir Majeed before the learned Trial Court and had given up them. Not examining the witness Amir Amjeed has weaken the case of the prosecution / complainant because said witness was in the middle of the complainant and accused persons to resolve the issue and had better knowledge of the incident as he was present in whole the episode especially at the time of incident according to the contents of the FIR. Record further reflects that complainant had also failed to produce the remaining two private witnesses namely Aziz-ur-Rehman and Farrukh Sohail. From the record it appears that as per CDR collected by the I.O Kausar Amir / respondent No.1 was not found at place of incident. It has also come on record that there were family dispute between the parties as complainant alleged that she had married with PW-Amir Majeed while accused Kausar Amir had denied the same. It also appears from the record that there is no eyewitness of the alleged incident and the witnesses which complainant had setup had not appeared before the Court for their deposition, so also none from the public or restaurant management had been made witness, which infers that the prosecution has failed to establish its case against the accused persons / respondents No.1 to 3.

After filing of the instant appeal none has shown appearance on behalf of the appellant. On the other hand, learned Addl. P.G. while

supporting the impugned judgment also seeks dismissal of the present Acquittal Appeal.

I have gone through the evidence available on the record with the assistance of the learned Addl. P.G. Sindh, which reveals that there is no legal infirmity in respect of the impugned judgment. Even otherwise, it is observed here that the instant appeal has been filed against acquittal order and it is cardinal principle of criminal jurisprudence that an accused, who has been acquitted of the charge is credited with two advantages, one; the innocence available to him at the pre-trial stage and the other which is earned by him on the basis of the acquittal order passed by the Court of competent jurisdiction and acquittal order can only be interfered with when the same is found perverse, arbitrary, unreasonable, ridiculous, based on misreading of material evidence, or based on surmises unwarranted under law, but in the instant case no such eventuality is found available. Reference may be made to a case reported as *Waseem Hussain and 2 others v. Muhammad Rafique and another* [2017 SCR 428].

In the circumstances, this Appeal having no merits is dismissed in limine.

JUDGE