

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Appeal No. 153/2019

DATE

ORDER WITH SIGNATURE OF JUDGES

For regular hearing

13.10.2022:

Appellants present in person.

Mr. Talib Ali Memon, APG

Syed Abid Hussain Zaidi, Respondent No.2/Complainant (CNIC No.42101-3970949-1).

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Syed Abid Hussain Zaidi, complainant in this case is present and submits that he is in possession of the property and that the appellants have not bothered him since the time he was put in possession of the property and that he has forgiven the appellants in the name of Allah. Notwithstanding the magnanimity of the complainant, learned APG has pointed out to the Court that the offence under the Illegal Dispossession Act is not compoundable and, therefore it is of no use to the appellants that the complainant has forgiven them. Learned APG is correct in his submissions. The complainant in view of the correct opinion of the learned APG has stated that he may be allowed to withdraw the complaint which he had filed initially and which is the basis of these appellate proceedings. Learned APG is of the view that the fact that the complainant has forgiven the appellants as well as the fact that the complainant has been in undisturbed and peaceful possession of the property since he was put in possession coupled with the fact that he categorically wants to withdraw the complaint he filed, Court may take a lenient view and consider the request for withdrawal of the complaint as well as forgiveness as mitigating factors in the reduction of the sentence to the period which the appellants have already undergone.

I have heard the appellants in person as well as the complainant and have been ably assisted by the learned APG. I am inclined to agree with the learned APG on the reasons he has argued. I have also taken into consideration the fact that appellant Mukhtar Ahmed is a man of an advanced age and also suffers from various ailments and has shown complete repentance while his son Yasir Ahmed, aged 25 years, who still has a long career in front of him, is the only bread earner of his family. Therefore, in the peculiar circumstances of this case and with the consent of the learned APG as well as the complainant, appeal is dismissed, however, the sentence is reduced to the one already undergone by the appellants. They are on bail. Their bail bonds stand cancelled and surety discharged which may be returned to its depositor on proper identification. It is clarified that this order is restricted to the circumstances which have arisen in this case and that it shall not be treated as a precedent.

J U D G E

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