

IN THE HIGH COURT OF SINDH AT KARACHI

Present: Ahmed Ali M. Sheikh, CJ and Omar Sial, J

Special ATA Acq. Appeal No. 347 of 2019

Mubashir Hassan v. Muhammad Afzal & others

Syed Suleman Badshah, Advocate for appellant.

Mr. Ali Haider Saleem, DPG a/w Inspector Noor Alam of P.S. Gulshan-e-Iqbal.

Date of order : 9-2-2021

ORDER

Omar Sial, J: Mubashir Hassan has impugned a judgment dated 2-12-2019 passed by the learned Anti-Terrorism Court No. 16 at Karachi. In terms of the said judgment Muhammad Afzal and Muhammad Younus were acquitted of a charge under sections 384, 385 and 34 P.P.C. read with section 25-D of the Telegraph Act, 1885 and section 7 of the Anti-Terrorism Act, 1997.

2. A background to the case is that F.I.R. No. 236 of 2018 was registered at the Gulshan-e-Iqbal police station by Mubashir Hassan on 7-6-2018. He recorded that he is in the business of transportation and that since 27-4-2018 he had been receiving extortion text messages on his phone. He was informed by various agencies that his driver named Aijaz Bangash and Bangash's brother Muhammad Afzal were behind the messages.

3. We have heard the learned counsel for the appellant as well as the learned DPG.

4. The learned counsel for the appellant argued that the defect in the impugned judgment was that even though a SIM had been recovered from the respondents, which SIM was used to send the extortion messages, the learned trial court did not appreciate this piece of evidence while rendering the impugned judgment.

5. We have examined the impugned judgment and note that the learned trial court has analyzed each and every piece of evidence in great detail and given cogent reasons for its conclusions on each. The issue of the recovery of the SIM has also been covered by the learned trial court. We are of the view that no mis-reading or non-reading of evidence has been pointed out to us by the learned counsel nor do we find any illegality in the impugned judgment nor that it is

arbitrary, perverse or capricious. Needless to say a double presumption of innocence also works in the favour of the respondents.

6. In view of the above, the appeal stands dismissed.

JUDGE

CHIEF JUSTICE