

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Acquittal Appeal No.S- 153 of 2021

Appellant/complainant:	Amanat Ali son of Irshad Ali bycaste Syed Resident of Syed Mohalla, Taluka Salehpat, District Sukkur Through Mr. Safiullah Soomro advocate.
Private respondents :	<ol style="list-style-type: none"> 1. Ghulam Murtaza. 2. Abdul Razzak Both sons of Jam Mahar, Residen of Memon Mohalla Salehpat, District Sukkur. 3. Mukhtiarkar Revenue, Tauka Salehpat, District Sukkur. 4. Station House Officer, Police Station Salehpat, District Sukkur.
The State.	Through Syed Sardar Ali Shah Rizvi, Additional P.G.
Date of hearing	: 13-11-2023.
Date of decision	: 13-11-2023.

JUDGMENT

IRSHAD ALI SHAH, J.-. The facts in brief necessary for disposal of instant Crl. Acquittal Appeal are that the appellant filed a complaint for prosecution of the private respondents for allegedly having committed offence punishable u/s 3/4 of Illegal Dispossession Act, 2005, it was brought on record; the private respondents joined trial and they then were acquitted u/s 265-K Cr.P.C on filing of such application by learned Vth Additional Sessions Judge, Sukkur vide order dated 27-11-2021, which is impugned by the appellant before this Court by preferring the instant Crl. Acquittal Appeal.

2. It is contended by learned counsel for the appellant that learned trial Court has recorded acquittal of the private respondents without lawful justification on the basis of defence plea by denying the right to the appellant to prove his case by examining his witnesses; therefore, the impugned order being illegal is liable to be set aside by this Court.

3. Learned APG for the State did not support the impugned order, however learned counsel for the private respondents by supporting the

impugned order has sought for dismissal of instant Crl. Acquittal Appeal by contending that a simple dispute with regard to the demarcation of subject land has been given cover of criminal case under provision of Illegal Dispossession, Act, 2005 by the appellant.

4. Heard arguments and perused the record.

5. Admittedly the complaint filed by the appellant was brought on record with an observation that prima-facie the offence under Illegal Dispossession Act has been made out. In that situation, the appellant was having a legitimate right to prove his case by examining his witnesses at trial; such right could only be taken away in exceptional circumstances when prima-facie it is established beyond doubt that trial would not raise a probability or possibility of the conviction of the accused involved in the incident. By believing the defence plea, the appellant has been disbelieved by learned trial Court in summary manner, which is against the mandate contained by Article 10-A of Islamic Republic of Pakistan, 1973, which prescribes right of fair trial. In these premises, the impugned order could not be sustained; it is set aside with direction to learned trial Court to proceed with the case further and in accordance with law.

6. The private respondents are directed to join the trial by furnishing fresh surety in sum of Rs.50,000/- each and P.R bond in the like amount to the satisfaction of learned trial Court.

7. The instant Crl. Acquittal Appeal is disposed of accordingly.

J U D G E

Nasim/P.A