

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Appeal No.S-147 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For hearing of main case.

09.10.2023.

Mr. Mian Taj Muhammad Keerio, Advocate for appellant alongwith appellant Gul Hassan Khaskheli (on bail)

M/s. Neel Keshav and Anwar Ali Tunio, Advocates for the complainant.

Mr. Nazar Muhammad Memon, Additional P.G.

ORDER

ARSHAD HUSSAIN KHAN, J.- Through this appeal, appellant has impugned the judgment dated 29.08.2023 passed by learned 2nd Additional Sessions Judge, Tando Allahyar in I.D. Complaint No.03 of 2023, whereby he has been convicted under Section 3(i) of Illegal Dispossession Act, 2005 and sentenced to suffer S.I for one year and to pay fine of Rs.10,000/-, in default whereof, to suffer S.I for three months more. Besides, he was directed to pay Rs.50,000/- as compensation to be paid to the complainant in terms of Section 544-A Cr.P.C and in default thereof to suffer S.I for three months more.

2. The appellant after above conviction filed this appeal which was admitted to regular hearing on 04.09.2023. Today, appellant and complainant have jointly filed compromise application under Section 345 Cr.P.C duly supported by the Affidavits, which are taken on record. Office to assign MA number to this application.

3. At the very outset leaned Counsel for the appellant while citing the case law reported as Akhtar Hussain v. Station House Officer Sachal Karachi and 2 others [2020 P.Cr.LJ Note 20] submits that Section 9 of the Illegal Dispossession Act, 2005 provides that unless otherwise provided in the Illegal Dispossession Act, 2005, the provisions contained under the Scheme of Criminal Procedure Code, 1898 shall be applicable to all the proceedings under the Act; as such, the compromise arrived at

between the parties under the Act would be treated as the compromise within the meaning of Section 345 Cr.P.C. He, therefore, prays that application under Section 345 Cr.P.C may be allowed and appellant / convict, who has already handed over the possession of the subject property to the complainant, may be acquitted of the charges including the fine/compensation.

4. Learned Counsel for the complainant submits that after impugned judgment the possession of the subject property has been handed over to the complainant under the orders of the trial Court; as such, he has no objection if the appellant is acquitted from the charges including payment of fine / compensation, if any.

5. Learned A.P.G in view of the above legal position has also tendered his no objection to the grant of compromise application.

6. In view of the above, it is observed that the compromise entered into between the parties appears to be genuine, lawful and without any pressure or coercion from any side. Complainant has pardoned the appellant due to intervention of Nek Mards of the locality and in lieu of such compromise he does not claim any compensation from the appellant. In the case of like nature the Single Bench of this Court in the case of Akhtar Hussain v. Station House Officer Sachal Karachi and 2 others (*ibid*) has allowed the application under Section 345 Cr.P.C in the offence under the Illegal Dispossession Act, 2005. Hence, keeping in view the cordial relations between the parties in future and besides the complainant has taken over the possession of the subject property, the compromise application under Section 345 Cr.P.C is hereby granted and consequently appellant Gul Hassan Khaskheli son of Haji Piaro is acquitted of the charges in terms of the compromise. Appellant is present on bail; his bail bond stands cancelled and surety is hereby discharged.

The Appeal is disposed of accordingly.

JUDGE

