

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI

Spl. Cr. Misc. Application No. 381 of 2021
[Jamaluddin & others v. The State]

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of Main Case.
2. For hearing of M.A. No.6502 of 2021.

27-02-2024

Mr. Sagar Ladhani, Advocate, holds brief for Mr. Farogh
Naseem, Advocate for the Applicants.
Ms. Alizeh Bashir, Assistant Attorney General for Pakistan.

Adnan Iqbal Chaudhry J. - Counsel holding brief for Mr. Farogh
Naseem, Advocate for the Applicants yet again requests for an
adjournment. However, in view of the previous orders, I am not
inclined to adjourn the matter.

2. This is an application under section 561-A CrPC challenging
order dated 12-02-2020 passed by the Special Judge (Customs &
Taxation), Karachi, whereby he dismissed the Applicants
application under section 265-K CrPC. By now the Applicant No.1
has passed away and this application remains pending for the
Applicants 2 and 3.

3. The ground urged in the application is essentially that the
contents of the challan and the judgment passed by the Customs
Appellate Tribunal in adjudication proceedings provided sufficient
material to acquit the Applicants, but that the trial Court dismissed
the application under section 265-K CrPC with the observation that
the trial is near conclusion.

4. While it is correct that the trial Court can acquit an accused
person under section 265-K CrPC at any stage of the case, that is
where there is no probability of accused being convicted, and to
arrive at conclusion it is not safe to appraise the evidence in
piecemeal. In the impugned order the trial Court has clearly

observed that on perusing the material it cannot be said that there is no chance of conviction of the Applicants. The report submitted by the trial Court on 04-11-2022 shows that four (04) PWs had been examined by that date. That was 1½ years ago and by now the trial is at the verge of conclusion. Nonetheless, for seeking acquittal from this Court while the trial is pending the Applicants continue to rely on the challan and the judgment of the Customs Appellate Court instead of the depositions of the PWs recorded by the trial Court. In fact none of those depositions have even been filed with this application. There is nothing to show what evidence has come on the record on trial. In these circumstances, I see no reason to interfere in the order passed by the Special Judge. Resultantly, the application is dismissed alongwith pending application(s).

SHABAN*

JUDGE