

81

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Acquittal Appeal No.D- 17 of 2010.

Present:
Mr. Justice Zafar Ahmed Rajput-J
Mr. Justice Muhammad Iqbal Kalhoro-J

Appellant Abdul Wahid Dayo, through his advocate Mr. Irshad Ali R. Chandio.

Respondents No.1 to 3. Shahid Hussain & others through their advocate Mr. Ashfaq Hussain Abro.

Respondent No.4. The State through Mr. Sardar Ali Shah, A.P.G.

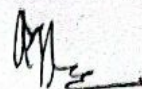
Date of hearing: 13.12.2016.

Date of judgment: 13.12.2016.

J U D G M E N T

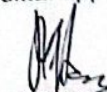
Muhammad Iqbal Kalhoro-J: Appellant is complainant of the F.I.R No.62 of 2007 registered at P.S Ratodero for the offence U/S 302, 364 PPC. He has alleged in the F.I.R that respondents had taken away his son namely Siraj Ahmed on 08.5.2007 at about 6.00 p.m from his house in Dhak Tala near Old Eidgah Muhalla Ratodero to Karachi on the promise of getting him job there, but then next day he received information that his son Siraj Ahmed was found lying dead at the railway track near Jhampir. On such information he went to that place where he was informed that his son was referred to Taluka Hospital Dokri, where he went and identified the dead body of his son. To the above effect, he tried to lodge the F.I.R at Railway Police Station concerned but in vain hence through Court order U/S 22 A, B Cr.P.C he got the present F.I.R registered. The case was tried by the Additional Sessions Judge Ratodero and vide impugned judgment dated 19.02.2010, he acquitted all the respondents. Being aggrieved by the said judgment, the appellant has preferred this acquittal appeal. His case is that the deceased was seen lastly in the company of respondents who took him away to Karachi on the promise of getting job but on the way they killed him and threw his dead body on railway track. His counsel has mainly emphasized that since the respondents did not inform the appellant about death of his son, they are responsible for his death and this aspect of the case has not been considered by the learned trial Court.

On the other hand, learned A.P.G and counsel for the respondents have supported the impugned judgment.



We have considered the submissions of the parties and have perused the material including the evidence available on record. Except the word of the complainant that the deceased was taken by the respondents to Karachi as alleged, no independent witness has been examined by the prosecution in support of this fact. Even otherwise, merely on the basis of the evidence that the deceased had gone to Karachi in the company of the respondents it can not be inferred that he was done to death by the respondents unless some corroborative piece of evidence is brought on record regarding his killing at the hands of respondents. In the present case, not only no corroborative evidence is brought on record by the prosecution, but even it is not alleged as to in what manner and in what circumstances, the deceased was done to death by the respondents. The record also reflects that into the death of deceased the Railway Police conducted proceedings U/S 174 Cr.P.C, which relate to inquiry into unnatural death of a person and those proceedings were produced in trial. It is also the matter of principle of law that after the acquittal, the accused earns double presumption of innocence and to discard the same, strong evidence is needed but here no such evidence is available. Additionally we have seen that the learned trial Court in the impugned judgment has exhaustively dealt with the evidence of the parties and have pointed out the discrepancies and contradictions in the evidence of the witnesses making the entire prosecution case doubtful and we have no reason to interfere in the same findings and infer otherwise to innocence of the respondents. Resultantly, we see no merits in the acquittal appeal which is accordingly dismissed.


JUDGE


JUDGE 13-12-2016