

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI.**

Cr. Acq. Appeal No. **147 of 2016**

Date	Order with signature of Judge
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1. For orders on MA No.11064/2016
2. For hearing of Main case

**21.03.2018.**

None present for the appellant  
Ms. Rahat Ahsan, Addl: P.G.

**ORDER**

Complainant/appellant and his counsel are called absent. However, we with the assistance of learned Additional Prosecutor General have gone through the entire material available on record. This acquittal appeal has been filed against the impugned judgment dated **20.02.2016**, whereby learned Sessions Judge Malir, Karachi has acquitted the respondents in Sessions Case No.180/2013, registered at Police Station S.I.T.E. Hyderabad in the offences under Section 302, 34 PPC.

Brief facts of the case are that complainant lodged an FIR on **13.11.2011** at 1900 hours alleging there in that he had already lodged an FIR bearing Crime No.775/2011, under Section 365, 34 PPC at Police Station, Shah Latif Town regarding abduction of his deceased son namely Muhammad Bachal but meanwhile he contacted his said son on a mobile phone who informed him that he was in Hyderabad with respondent Ali Murad. He went to Hyderabad in search of his son but could not find him. Ultimately, on **13.11.2011** at about **11:00 p.m.**, during a search, he found dead body of his son lying in a ditch of dirty water at Zeal Pak Cement Factory near Labour Colony, Hyderabad. He communicated such information to the police and subsequently the FIR was registered.

After a full-fledged trial, the respondents were acquitted through the impugned judgment as stated above. Being aggrieved by the same, the appellant / complainant has filed the instant appeal but, as noted above, he has mostly remained absent.

We have heard learned Additional Prosecutor General, who has supported the impugned judgment. A perusal of record reflects that prosecution case is mainly dependent upon evidence of complainant Muhammad Nawaz and PW-Usama, who is said to be brother of respondent Ali Murad. The evidence of the complainant is hearsay based on the story narrated by PW-Usama. However, when the evidence of PW.Usama was recorded, he did not support the prosecution case and was declared hostile, but in his cross

examination nothing favourable to the prosecution could be extracted. Despite that the prosecution sought conviction of the accused on the ground that PW namely Usama in his statement under Section 164 Cr. P.C. had supported the prosecution case qua culpability of the accused/respondents. The trial court has exhaustively dealt with such contention of the prosecution in the impugned judgment and has given cogent reasons for not relying upon the statement of PW-Usama under Section 164 Cr. P.c. for recording conviction against the respondents. We have not found any material to differ with the said reasoning of the trial court. Therefore, we do not find this appeal to have any merits for reconsidering prosecution case. Accordingly, this appeal being meritless is dismissed.

The Cr. Acquittal Appeal stands disposed of in the above terms.

**JUDGE**

**JUDGE**

Rafiq/P.A.

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI.**  
C.P.No.D-6677 of 2017  
C.P.No.D-5963 of 2017

Date	Order with signature of Judge
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1. For orders on office objection
2. For hearing of Main case

**20.03.2018.**

Mr. Mansoob Qureshi, advocate for petitioners  
Mr. Muhammad Khan Burrior, Add. AG  
Ms. Rahat Ahsan, Addl: P.G.  
PI Sarfraz Ahmed, CTD  
PDSP Mehdi Hussain CTD.

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Petitioners, who are jail officials and posted in Central Prison, Karachi, have filed these petitions on multiple prayers in respect of their grievance against registration of two (02) FIRs. One bearing Crime No.145/2017, under Section 119, 130, 201 & 222 PPC R/w Section 7 of ATA, 1997, at Police Station CTD, Sindh Karachi, and the other bearing Crime No.149/2017, under Section 223, 224, 225, 225-A PPC R/w Section 7 of ATA, 1997, at Police Station, New Town, Karachi registered against the petitioners and others on the allegations that include escape of two Under Trial Prisoners ('UTPs'), who were confined in the Central Prison, Karachi from their custody. The petitioners are not only seeking quashment of the above said FIRs but also suspension of ensuing investigation, and / or transfer of investigation to any other relevant agency from the Counter Terrorism Department ('CDT'). However, during course of arguments, we have been informed that in both the above said FIRs, the final report (the challan) under Section 173 Cr. P.C. has been submitted before the ATC Courts concerned, Karachi and the trial has commenced. In view of such matter coupled with the fact that petitioners have an adequate remedy under Section 249-A and 265-K against their grievance, the above said FIRs cannot be quashed. For such a view reliance can be placed on the case law reported in **2006 SCMR 1957, 2011 SCMR 1813 and PLD 2013 SC 401**. Insofar as the prayer relating to transfer or suspension of investigation in these two (02) FIRs is concerned, the same has become infructuous because not only investigation has been completed and the challan has been submitted but the trial Court after taking cognizance has started the trial. This being the position, we are of the view that the petitions in hands have become devoid of any merits and are accordingly dismissed. However, the petitioners are at liberty to move the trial Court, if so advised, for any remedy in accordance with law.

The petitions are disposed of in the above terms along with pending application(s).

**JUDGE**

Rafiq/P.A.

**JUDGE**

