

# IN THE HIGH COURT OF SINDH, AT KARACHI

Cr. Appeal No.618 of 2024  
(Zaki ur Rehman & another Vs. The State & others)

1. For orders on office objection at 'A'
2. For orders on MA No.14387/2024 [U/s 426 Cr.PC]
3. For orders on MA No.17019/2024 [U/s 561-A Cr.PC]
4. For order on MA No.17020/2024 [U/s 345(2) Cr.PC]
5. For order on MA No.17021/2024 [U/s 345(6) Cr.PC]
6. For hearing of main case
7. For hearing of MA No.11808/2024 [U/s 561-A Cr.PC]

**20-12-2024**

Mr. Kamran Rizwan, Advocate for the appellants  
Mrs. Seema Zaidi, Additional Prosecutor General, Sindh

## **ORDER**

**MUHAMMAD IQBAL KALHORO, J.:** Appellants were tried by learned IV<sup>th</sup> Additional Sessions Judge, Karachi East in Criminal Complaint No.213 of 2022 (Re: Shehnaz Begum v. Zaki ur Rehman and another) and were convicted vide impugned judgment dated 29.08.2024 for offence u/s 3 of the Illegal Dispossession Act, 2005 and sentenced to suffer R.I for seven years with fine of Rs.100,000/- each and in case of default, to suffer S.I for four months more. They were also directed to pay compensation of Rs.300,000/- each to the respondent No.2/complainant under Section 544-A CrPC. They have challenged their conviction and sentence in this appeal.

2. Parties have filed applications in terms of Section 345 (2) & (6) and 561-A CrPC for compromise between appellants and respondent No.2/complainant, duly supported with their affidavits. Respondent No.2/complainant (Mst. Shehnaz Begum) was present in person on the last date of hearing viz. 12.12.2024 and submitted that she has compromised with the appellants and extended her no objection for acquittal of the appellants/accused of all the charges including the term of sentence in default of payment of fine.

3. As to the maintainability of compromise applications, learned counsel for the appellants submits that though the specific provision for compounding offence is not embodied under the Illegal Dispossession Act, 2005; however, this being Criminal Complaint is governed by the Scheme of Criminal Procedure Code of 1898. Therefore, Section 345 CrPC is applicable and presumption would be that the offence related to the property, being of civil nature, is compoundable. In support of his contentions, he has relied upon case of *Malik Muhammad Ejaz Channar v. The State etc.* (**PLJ 2022 Cr.C. 765**) and an unreported order dated 12.07.2018, passed by this Court in Crl. Appeal No.S-214 of 2017.

4. His arguments have not been opposed by learned counsel appearing on behalf of respondent No.1 as well as learned Additional P.G. The latter has further added that the offence under Section 3 of the Illegal Dispossession Act, 2005 is considered compoundable in the light of judgment reported as *Akhter Hussain v. SHO Sachal Karachi & 2 others* (**2020 PCrLJ Note 20-Sindh**), therefore, he has no objection if the appellants are acquitted on the basis of compromise between the parties.

5. I have considered submissions of parties, perused the record and taken guidance from the case laws cited at bar. In the case of *Akhter Hussain* (supra), learned Single Bench of this Court has considered the offence under Illegal Dispossession Act as compoundable and has acquitted the accused on the basis of compromise.

6. In view thereof, compromise effected between the parties with their consent, so also the case-laws cited at bar, is accepted as the compromise arrived at between the parties under the Act could be treated as the compromise within meaning of Section 345 CrPC. It is an admitted position that both the parties have amicably settled their differences outside the Court and have resolved the differences to lead rest of their lives in peace and tranquility. It is settled that non-compoundability of a particular section of the law should not be read in isolation, but in the background of each criminal case and beneficial interpretation should be given to it. When the parties have earnestly

decided to live in peace and tranquility by forgetting and giving up all their past transactions, this Court cannot have any objection disapproving the same.

7. Accordingly, these compromise applications are **allowed** in the circumstances. As a result, this Criminal Appeal along with listed applications is **disposed of** accordingly and the appellants are acquitted of the charge under Section 3 of the Illegal Dispossession Act, 2005 on the basis of compromise. Appellants are confined in jail and shall be released forthwith if not required in any other custody case.

**J U D G E**

B-K Soomro