

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

Criminal Acquittal Appeal No.S-252 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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For order on office objection.
For hearing of main case.

21.09.2026

Mr. Irfan Ali Bughio, Advocate for appellant.
Mr. Pervaiz Tarique Tagar, Advocate for respondents.
Ms. Rameshan Oad, Deputy Prosecutor General, Sindh.
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This Criminal Acquittal Appeal has been preferred by the appellant/complainant on 16.10.2021 against the judgment dated 28.09.2021 passed by the learned 8th Additional Sessions Judge, Hyderabad in an I.D. Complaint No.108/.2024, whereby respondents were acquitted after a full-dressed trial of the charge in a complaint instituted under the Illegal Dispossession Act, 2005.

I have examined the record. The short question requiring determination is whether the instant appeal is maintainable in the absence of an application seeking special leave to appeal. The remedy against an order of acquittal is governed by Section 417(2), Cr.P.C. which expressly provides that the complainant may present an appeal to this Court only after an application made by him in that behalf is allowed and special leave to appeal is granted by this Court. Furthermore, under sub-section (3), such application for special leave cannot be entertained after expiry of sixty days from the date of the order of acquittal.

The requirement of obtaining special leave is not a mere procedural formality but a statutory condition precedent to the maintainability of an acquittal appeal arising out of a complaint. This Court has consistently held that where an acquittal recorded in a complaint case is challenged without first obtaining special leave under Section 417(2), Cr.P.C., such appeal is incompetent and cannot be entertained.

In the present case, the appellant has directly preferred the instant Criminal Acquittal Appeal without filing any application under Section 417(2), Cr.P.C. seeking special leave to appeal. Thus, the mandatory statutory requirement has not been complied with. The subsequent presentation of the appeal cannot cure this fundamental defect in its maintainability. Consequently, without entering into the merits of the impugned judgment, I am of the considered view that the instant Criminal Acquittal Appeal is not maintainable for want of prior special leave to appeal under Section 417(2), Cr.P.C. Accordingly, the instant Criminal Acquittal Appeal is **dismissed** as not maintainable.

JUDGE

Hafiz Fahad