

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS
Criminal Acquittal Appeal No.S-155/2024

Appellant : Muhammad Rafique s/o Muhammad Hashim
Through Mr. Farhan Ahmed Bozdar advocate.

Respondents : 1. Muhammad Raheem s/o Sukhio.
2. Pandhi s/o Sukhio.
3. Gul Hussain s/o Ali Khan.
4. Meer Khan s/o Mooso.
5. Mustafa s/o Muhammad Raheem.
6. Abdul Sattar s/o Sukhio.
7. Zulfiqar s/o Sukhio.
8. The State.
Respondents No.1 to 7 through Mr. Preet Pal Singh advocate while respondent No.8 through Mr. Shahzado Saleem Nahiyoan, Additional P.G.

Date of Hearing: 20.10.2026

Date of Judgment: 20.10.2026

JUDGMENT

Nisar Ahmed Bhanbhro, J: This Criminal Acquittal Appeal is directed by the appellant/ complainant against judgment dated 16-10-2024 passed in Sessions/ I.D Case No. 41/ 2024 Re: *Muhammad Rafique vs. Muhammad Raheem and others*, by learned Additional Sessions Judge-II, Tharparkar @ Mithi, whereby the respondents/ accused have been acquitted of the charge for offence under sections 3-4 of Illegal Dispossession Act, 2005.

2. Brief facts of this case are that appellant/ complainant filed complaint under sections 3-4 of Illegal Dispossession Act, 2005, alleging therein that he is lawful owner/purchaser of agricultural land bearing Survey No.119/1 (04-00 acres) and S.No.119/2 (04-00 acres) situated in Deh Kharak, Tapa Additional Kaloi, Taluka Kaloi, District Tharparkar, which he has purchased from Khatedars namely Muhammad Siddique, Mst. Zareena, Mst. Zeenat, Mst. Ameena and Mst. Mati, to the extent of their share 0-74.86 paisa, through registered sale deed No.858 dated 25-08-2023, in the sum of Rs.600,000/- and same is mutated in the name of appellant vide entry No.92 dated 06-10-2023 of D.F. VII-B of Deh Kharak, Tapa Additional Kaloi, Taluka Kaloi, District Tharparkar and was in the cultivating possession of appellant party since its purchase. On 25-

02-2024, appellant was present at his land, in the meantime, at 04:00 p.m., the respondents/ accused persons, armed with deadly weapons, entered into the subject land, and in presence of witnesses namely Meer Hassan and Ahmed Ali, they forcibly dispossessed the appellant/ complainant and occupied his land, thereafter, appellant/complainant approached Mukhtiarkar Revenue, Taluka Kaloi so also SHO P.S Kaloi for redressal of grievances but nothing to avail, which resulted into this case. After receiving the complaint, learned trial court directed S.H.O P.S Kaloi to conduct inquiry into the matter and submit his report within 15 days. The report was also called from the concerned Mukhtiarkar. The Mukhtiarkar as well as S.H.O submitted their reports. On the basis of reports, complaint was brought on regular file. The respondents/ accused appeared in response of process issued by trial court, furnished required surety and after supplying the relevant documents, the charge was framed against them, to which they pleaded not guilty.

3. To substantiate the charge, appellant/ complainant Muhammad Rafique examined himself as Ex.03. C.W-2 Mir Hassan was examined at Ex.04. C.W-3 Ahmed Ali was examined at Ex.05. C.W-4/Inspector Dodo Khan was examined at Ex.06. C.W-5/Mukhtiarkar Abdul Qadeer was examined at Ex.07. Thereafter, learned counsel for the appellant/ complainant closed the side of evidence on behalf of complainant. Thereafter, statements of accused U/S 342 Cr.P.C were recorded, wherein they denied the allegations of the appellant/ complainant leveled against them. Learned Trial Court, after hearing learned counsel for the parties acquitted the respondents/ accused; hence, this Acquittal Appeal.

4. Learned counsel for the appellant contended that acquittal is result of misreading and non-reading of the evidence available on record and learned trial court has committed illegality and material irregularity in acquitting the respondents. He, therefore prays for setting aside the impugned judgment and conviction of the respondents/accused.

5. Learned Additional P.G assisted by learned counsel for the respondents, while controverting the submissions of learned counsel for the appellant, contended that respondents/ accused were the co-sharers in the land in question, therefore, were in possession of said property and learned trial court has rightly resolved that no case for illegal dispossession was made out.

6. Heard arguments and paused the material available on record. The scanning of evidence of the parties reveals that the appellant/ complainant in his evidence has not uttered a single word constituting charge within the meaning and definition of sections 3-4 of Illegal Dispossession Act, 2005 and matter, in the circumstances of case, is purely of civil nature. Learned trial court ought to have decided the jurisdiction in a very moment when complaint was filed, however, no exception can be taken to the findings of learned trial court regarding acquittal of the respondents/ accused.

7. It is a well-settled exposition of law that in an appeal against acquittal, the Court would not ordinarily interfere and would instead give due weight and consideration to the findings of the Court acquitting the accused which carries a double presumption of innocence, i.e. the initial presumption that an accused is innocent until found guilty, which is then fortified by a second presumption once the Court below confirms the assumption of innocence, the same cannot be displaced lightly.

8. Learned counsel for the appellant has failed to point out any misreading and non-reading in the impugned judgment which is otherwise well reasoned. Therefore, no case, in the present Acquittal Appeal is made out. Accordingly, this Criminal Acquittal Appeal fails and is dismissed. However, the parties are at liberty to get redressal of their grievance before the appropriate forum, if so advised.

JUDGE

Saleem

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