

**IN THE HIGH COURT OF SINDH, CIRCUIT  
COURT, LARKANA**

**Criminal Appeal No. S- 21 of 2023.**

**Criminal Appeal No. S- 22 of 2023.**

**Appellants** : Niaz Ali Siyal and Sher Muhammad  
through Mr.Athar Abbas Solangi, Advocate in  
Cr.Appeal No.S- 21 of 2023.

Appellant : Mushtaque Ali Mirani through  
Mr.Habibullah G. Ghouri, Advocate in  
Cr.Appeal No.S- 22 of 2023.

**Respondent** : The State through Mr. Aitbar Ali Bullo,  
D.P.G.

**Date of hearing :** 05.5.2025.

**Date of Judgment:** 14.5.2025.

**J U D G M E N T**

**AMJAD ALI SAHITO-J.**:- Through this common judgment I intend to dispose of these two criminal appeals filed by appellants who have assailed the judgment dated 09.3.2023 passed by learned Special Judge, Anti-corruption (Provincial) Larkana in Direct Complaint No.11 of 2016 R: Aijaz Ahmed Bhatti v. Muhammad Urs and others filed under Section 467, 468, 420 PPC R/W Section 5(2) of Prevention of Corruption Act 1947 (II of 1947), whereby appellants have been convicted and sentence as under:



“ In view of the above discussion, I am of the considered view that the evidence of the Complainant is confidence reposing and rings the truth, hence the accused persons Mushtaque Ali s/o Muhammad Uris Mirani, Niaz Ali s/o Mehmood Khan Siyal, and Sher Muhammad S/o Shahmir Khan Siyal are convicted U/s 245 (ii) Cr.P.C.; accused Mushtaque Ali s/o Muhammad Uris Mirani is sentenced to suffer Rigorous 640 Imprisonment for the period of Seven years and to pay fine Rs.50000/= for the offence punishable U/s 467 P.P.C., and in case of default in payment of fine Rs.50000/=, he shall further suffer S.I for the period of four months more. Accused Mushtaque Ali s/o Muhammad Uris Mirani is further sentenced to suffer Rigorous Imprisonment for the period of Five years and Direct Complaint No.11 of 2016 Aijaz Ahmed Bhatti Versus Muhammad Uris & others to pay fine Rs.40000/= for the offence punishable U/s 468 P.P.C., and in case of default in payment of fine Rs.40,000/= he shall further suffer S.I for period of three months more. And accused Mushtaque Ali s/o Muhammad Uris Mirani is further sentenced to suffer Rigorous Imprisonment for the period of five years and to pay fine Rs.40000/= for the offence punishable U/s 420 P.P.C., and in case of default of in payment of fine Rs.40,000/=, he shall further suffer S.I for the period of three months more. Accused Niaz Ali s/o Mehmood Khan Siyal is sentenced to suffer Rigorous Imprisonment for the period of five years and to pay fine Rs.50000/= for the offence punishable U/s 467 PPC R/w Section 5(1) & (2) Prevention of Corruption Act-II of 1947, in case of default in payment of fine Rs.50,000/= he shall further suffer S.I for the period of three months more. Accused Niaz Ali s/o Mehmood Khan Siyal is further sentenced to suffer Rigorous Imprisonment for the period of four years and to pay fine Rs.40000/= for the offence punishable U/s 468 PPC R/w Section 5(1) & (2) Prevention of Corruption Act-II of 1947, in case of default in payment of fine Rs.40,000/= he shall further suffer S.I for the period of two months more. Accused Niaz Ali s/o Mehmood Khan Siyal is further sentenced to suffer Rigorous Imprisonment for the period of four years and to pay fine Rs.40000/= for the offence punishable U/s 420 PPC R/w Section 5(1) & (2) Prevention of Corruption Act-II of 1947, in case of default in payment of fine Rs.40,000/= he shall further suffer S.I for the period of two months more. Accused Sher Muhammad S/o Shahmir Khan Siyal is sentenced to suffer Rigorous Imprisonment for the period of five years and to pay fine Rs.50,000/= for the offence punishable U/s 467 PPC R/w Section 5(1) & (2) Prevention of Corruption Act-II of 1947, in case of default in payment of



fine Rs.50,000/= he shall further suffer S.I for the period of three months more. Accused Sher Muhammad S/o Shahmir Khan Siyal is further sentenced to suffer R.I for the period of four years and to pay fine Rs.40000/= for the offence punishable U/s 468 PPC R/w Section 5(1) & (2) Prevention of Corruption Act-II of 1947, in case of default in payment of fine Rs.40,000/= he shall further suffer S.I for the period of two months more. Accused Sher Muhammad S/o Shahmir Khan Siyal is further sentenced to suffer Rigorous Imprisonment for the period of four years and to pay fine Rs.40000/= for the offence punishable U/s 420 PPC R/w Section 5(1) & (2) Prevention of Corruption Act-II of 1947, in case of default in payment of fine Rs.40,000/= he shall further suffer S.I for the period of two months more. All the above sentences of above named accused persons shall run concurrently. Benefit of Section 382-B Cr.P.C. is extended in favour of the accused persons named above. Accused persons are present on bail, they are taken into custody and sent to Central Prison Larkana with direction to Superintendent Central Prison Larkana to serve out the sentences awarded now. Bail bonds of the accused persons are cancelled and sureties stand discharged accordingly. Since no property is shown or produced in the present Direct Complaint as such there remains no need to pass any property order.”

2. Facts of the prosecution case as narrated in the Direct Complaint are that late Abdul Razaque S/o Karim Bux Bhatti father of the Complainant had purchased houses Nos.128 & 129, Ward-A Naudero Town, Taluka Ratodero on 30/6/1960 vide record of Permanent Transfer Order at page No.144, and pages No. CSC 4-5. The Complainant had apprehension therefore he obtained true copy of P.T.O in respect of above said houses, issued by the District Officer Revenue and Estate Larkana on 9/5/2008; and after that the then Mukhtiarkar Ratodero also supplied the true copy of Deh Form No.II vide entry No.76 dated 13/10/2009 clearly showing the ownership of father of the Complainant. Later on coming to the knowledge for holding re-survey of Naudero Town, the Complainant personally attended the office of the then Mukhtiarkar Ratodero on 14/12/2010 and having apprehension reported him in writing to maintain the original entry No.76 and also supplied him Photocopy of true copy of P.T.O page 114 issued by D.C Larkana and also



Photocopy of true copy of Deh Form No.II showing entry No.76 dated 13/10/2009 in the name of his father, and that Application was received by the Office, signed by the concerned clerk with signature on margin and copy of the said letter was also submitted to the Deputy Commissioner, Larkana for record. He has further disclosed that accused No.1 (Muhammad Uris) who was student of father of the Complainant was residing adjacent to the Houses Nos.128 and 129 was entrusted to look after the properties, and the accused No.1 was pressing the Complainant to sale out the said property to him being adjacent and on refusal he, the accused No.1, became annoyed. He has further disclosed that later on in collusion with accused persons No.3 and 4 the record of right was illegally mutated in name of accused No.2, who was trying to sell the same to one Hindu Mithomal S/o Parsomal of Naudero.

3. He has further disclosed that when Hindu Mithomal came to know about original ownership in name of the father of the Complainant he met with the Complainant and showed him forged, fabricated record i.e. Deh Form No.II Naudero showing purchased by accused No.2 vide entry No.162 of 1990, then the Complainant submitted Application on 12/5/2015 to the Deputy Commissioner Larkana along with documents with a request to cancel false entry and to take action against delinquent officers for preparing forged entry. He has further disclosed that in compliance to the letter No.389 dated 15/5/2015 issued by the Deputy Commissioner Larkana, accused No.3 submitted his comments along with report of accused No.4, and they prepared false reports in collusion with each other; and it was reported that the houses were purchased by the accused No.2 from the father of the Complainant during year 1990 for an amount of Rs.50,000/= vide entry No.162 of 1990.

4. He has further disclosed that on the date of hearing, he, the Complainant, produced death certificate of his father showing date of his death as 14/3/1989, and further it was verified from perusal of the record that original leaf was destroyed and



replaced by new fresh page by showing the forged entry No.162 of 1990 in name of accused No.2; then the learned Deputy Commissioner after verification of the record and facts has passed well documented order dated 23/2/2016. He has further disclosed that the learned Deputy Commissioner Larkana has clearly proved that fraud had been committed in connivance with lower Revenue Official and further clearly directed Assistant Commissioner Ratodero to take disciplinary action against delinquent officials/private accused and also to start criminal proceedings; and accused No.3 was directed to restore original entry No.76 of 1965-66. He has further disclosed that up-till now neither disciplinary action nor criminal proceedings have been started against accused, nor original entry No.76 has been maintained. Hence he, the Complainant, filed the Direct Complaint against above named accused persons.

5. After receiving the Direct Complaint by learned trial Court/Special Judge, Anti-corruption (Provincial) Larkana, the statement of Complainant was recorded U/s 200 Cr.P.C, and then statement U/s 202 Cr.P.C of Complainant's witness was recorded during the preliminary enquiry. Thereafter the Direct Complaint was registered against the accused persons named above, and Bailable Warrants were issued against the accused persons.

6. Formal charge against the accused persons named above was framed at Exh.02, to which they pleaded not guilty and claimed for trial vide their pleas at Exh.2/A & Exh.2/D.

7. After completion of trial all four accused persons were convicted and sentenced vide judgment dated 27/7/2018. Thereafter, the accused persons preferred criminal appeal against the above judgment of trial Court before this Court, and this Court remanded case for denovo trial with directions to frame the charge afresh and to provide opportunities to the parties to adduce their further oral as well as documentary



evidence, and to record fresh statements U/s 342 Cr.P.C. of the accused persons.

8- The trial Court framed fresh formal charge against accused persons at Exh.13, to which they pleaded not guilty and claimed to be tried vide their pleas at Exh.13-A to Exh.13-D.

9- During proceeding of fresh trial of the Direct Complaint accused Muhammad Urs died, as such proceedings of the instant Direct Complaint against him was abated vide order dated 30/06/20921.

10. The Complainant examined himself as at Exh.15 (who produced true copy of PTO, original true copy of entry No.76, photocopy of his Application, fake entry, attested copy of his Application, report of Mukhtiarkar, true copy of order of D.C, copy of death certificate of his father, certificate of Chief Officer, Direct Complaint, certified copy of cancellation of entry, copy of affidavit of Muhammad Uris, copy of affidavit of Mushtaque as Exh.15/A to Exh.15/M respectively. Complainant examined his witness Mitho Mal at Exh.16. Thereafter Complainant closed his side for evidence vide his statement at Exh.17.

11. Statements U/s 342 Cr.P.C. of the appellants/accused persons named above were recorded as Exh.18 to Exh.20 respectively. In their statements they denied all the allegations leveled against them by the Complainant and claimed to be innocent.

12. On conclusion of trial, and after hearing both parties, learned trial Court convicted and sentenced the appellants under impugned judgment dated 09.3.2023, as stated above which is challenged by appellants in these appeals.

13. Learned counsel for the appellants mainly contended that the evidence adduced by the complainant at the trial was insufficient to warrant conviction of the appellants and learned trial Court failed to properly assess and evaluate evidence



brought on record; learned trial Court did not appreciate that P.W Mithomal did not depose a single word against the appellants Niaz Ali and Sherdil in his evidence recorded at the trial; alleged forgery in the revenue record pertains to the year 1990 and complainant has filed Direct Complaint on 28.3.2016 i.e after passing 25 years and no plausible explanation was furnished by the complainant for such an inordinate and shocking delay; prior to instant Direct Complaint, complainant had filed application under Illegal Dispossession Act twice which stood dismissed by learned trial Court while holding matter pertains to purely of civil nature; appellant Sher Muhammad who was Tapedar, by now retired, was posted as Tapedar in Revenue Department Larkana on 18.7.2013 viz. after 13 years of alleged transaction of sale; besides in 1990 neither Niaz Ali was Mukhtiarkar of Taluka Ratodero nor Sher Dil was Tapedar and neither it is alleged anywhere in Direct Complaint that they kept any entry, hence they cannot be held responsible for any offence, creating serious doubt into the veracity of prosecution case.

14. He further argued that the father of complainant admittedly died in hospital at Hyderabad but no death certificate from such hospital was produced by the complainant at the trial even complainant failed to provide any proof with regard to death of his father from his service record who was retired Head Master in Education Department; besides, per complainant his father died in the year 1989 and in cross examination he admitted that entry of death certificate was kept in revenue record after delay of 29 years despite the fact the complainant and his two other brothers being well known advocates well education, yet they did not maintain the entry regarding death of their father in time; complainant himself is an enrolled advocate since 1985, even if for the sake of argument it is taken that transaction between accused and his father was false and fraudulent, as to when other legal heirs kept silent for more than



25 years and no effort was made by complainant despite being advocate to get back the possession through legal process.

15. The complainant himself deposed that his remaining half family had shifted in the year 1994/95 from Naudero, therefore, in order to establish his possession he should have produced electricity bills or Sui Gas bills which in fact stand in the name of appellant Mushtaque; as regards the replacement of fresh page in the concerned record, it is also astonishing to note that complainant woke up for his alleged right after his nephew was posted as Additional Commissioner Larkana which also creates doubt; it is also pertinent to point out that P.W Mithomal was not produced after remand of the case for fresh trial who did not support case of the complainant during first round of trial when he had given contradictory statement to the version of complainant; complainant in his examination in chief only stated in respect of accused/appellants Niaz Ali and Sher Dil that they **may have perhaps** filed fake report before Deputy Commissioner; it is stated by P.W Mithomal in his chief recorded in Direct Complaint that he purchased the property in dispute from appellant Mushtaque Ahmed through verbal transaction and paid him total 14,00,000/= but he failed to execute sale deed in his favour rather he filed petition against him/Mithomal in which he engaged complainant as his advocate before High Court and later said petition was withdrawn by Mushtaque Ahmed and then in the year 2015 it was informed by complainant to him that said property belong to him/complainant, which factum clearly suggests that claim of complainant over property in dispute was after thought.

16. Learned counsel further argued that in fact learned trial Court failed to consider that at the most it was case of civil nature and no criminal liability could be fixed against the accused in absence of judgment by Civil Court declaring the sale transaction between accused and father of complainant as illegal more particularly when complaint under Sections 3, 4, 7 and 8 of Illegal Dispossession Act 2005 filed by the



complainant was dismissed vide judgment dated 21.12.2022 by learned IVth Additional Sessions Judge, Larkana while holding that grievance of complainant is purely of civil nature. On all these counts learned counsel prayed that impugned judgment passed by trial Court is bad on facts and law, hence liable to be set aside and accused/appellants may be acquitted of the criminal charge.

17. The Complainant while repeating the assertions made in direct complaint opposed these appeals and supported impugned judgment. However, learned Deputy Prosecutor General halfheartedly supported the impugned judgment.

18. I have heard the learned counsel for the respective parties and perused the record with their assistance.

19. It is an admitted fact that the complainant, Mr. Aijaz Ali Bhatti, who is a practicing Advocate and a retired government servant, filed the present complaint after an inordinate delay of approximately twenty-six (26) years from the date of the alleged incident. No satisfactory or plausible explanation for such prolonged delay has been offered by the complainant.

20. The complainant asserts that his late father, Abdul Razak Bhatti, had purchased a property bearing House Nos. 128 and 129, situated in Ward 'A', Naudero, Taluka Ratodero, on 30.06.1967. He alleges that the accused unlawfully occupied the said premises by demolishing a boundary wall. Conversely, the appellant, Mr. Mushtaq Ali, claims to have been in continuous and peaceful possession of the subject property since 1990, a period extending over three and a half decades. He resides therein with his family. It is further contended that the complainant remained silent for nearly thirty (30) years and only initiated litigation after his retirement from the Forest Department, upon entering the legal profession. The appellant asserts that the complainant manipulated the death certificate of his father in the year 2015 in order to support his belated claim.



From a bare perusal of the direct complaint, it is evident that the complainant has failed to specify the exact date or time when the alleged trespass or illegal occupation took place. During the course of proceedings, when the complainant/Advocate Mr. Aijaz Ali Bhatti was questioned regarding any evidence of his prior residence at the disputed premises, including utility bills such as those for electricity, gas, or water, he conceded that no such documents were in his possession. He nonetheless maintained that the utility records continued to bear the name of his late father.

21. Learned counsel for the appellant has submitted that the property in question was, in fact, purchased by the appellant, Mr. Mushtaq Ali, from the complainant's father in the year 1990, and possession was lawfully delivered to him at that time. Since then, he has been residing there uninterruptedly with his family.

22. In examination-in-chief the complainant has produced death certificate of his father issued by NADRA, wherein the father of complainant was passed on 14.03.1989. The complainant was well educated person and he did not bother to approach before the competent forum for the possession of the said house nor moved any application to the any official but he has started litigation in the year 2015.

23. PW-2 Mithumal has deposed that he has purchased house from Mushtaq Ali Mirani area of about 1270 in the year 2011 in the sum of Rs.16,00,000/-. He had paid Rs.14,00,000/- to Mushtaq Ali/appellant and after passing of sometime, he took amount Rs.2,00,000/- to Mushtaq Ali and demanded possession of the property to which he refused so also he refused to return amount of Rs.14,00,000/- to him/PW Mithumal. The Mithumal came to the Sessions Court Larkana for engaging an advocate, where the complainant/advocate Aijaz Ali Bhatti met with him and told him that he will get return Rs.14,00,000/- from Mushtaq Ali to him and further asked him to give evidence in his support. The complainant Aijaz Ali Bhatti brought him at Court of Anti-Corruption Court Larkana and obtained his signature on



the affidavit showing that Mushtaq Ali is residing in the said house for about 8/9 years. He has further deposed that the complainant Aijaz Ali asked him to give the evidence that Mushtaq Ali is residing in the said house for 8/9 years.

24. In cross examination he admitted that ***“it is correct to suggest that Mushtaq Ali is residing as by neighbourhood since long. I do not know whether Mushtaq Ali is residing with him as neighbor since 2020/21 years. It is incorrect to suggest that Aijaz Ali Batti filed a Civil suit for recovery of Rs.16,00,000/- after my earlier evidence. I can produce the documents which will proof that I had purchased the house from Mushtaq Ali. It is correct to suggest that I had not produce the purchased documents in my earlier evidence”***.

25. The complainant asserts that the subject property was purchased on 30.06.1960. However, the certified true copy of the relevant document evidencing such transaction was obtained only on 09.05.2008. Learned counsel for the appellant, Mr. Mushtaq Ali, contends that following the purchase of the property, the appellant took up residence therein. It is further submitted that the appellant was unaware of any entry purportedly maintained in the revenue record by the complainant's deceased father.

26. In his examination-in-chief, the complainant deposed that the accused, Mr. Mushtaq Ali, along with his sons, repeatedly approached and requested him to sell the subject property. Upon his refusal stating that the house was ancestral in nature, the accused allegedly became displeased. However, no corroborative evidence has been placed on record to support the assertion that the complainant was in possession of the property in question.

27. During his evidence, the complainant further deposed that the accused unlawfully entered the premises by demolishing the adjoining wall without his knowledge or consent, and thereafter attempted to sell the house to one Mr. Mithumal. The complainant stated that this information was relayed to him by a



neighbor. However, he failed to produce any witness before the trial court to substantiate his claim that the house was unoccupied and that the accused gained possession by breaching the wall.

28. Moreover, the complainant did not assert that the appellant had any prior title or ownership in relation to the premises adjacent to the house in question. Nevertheless, the appellant relies on certain revenue entries to claim that his father was the rightful owner of the said property. Notably, for a period of approximately 46 years, the complainant did not initiate any legal proceedings or raise any objection before any competent forum in this regard.

29. In cross examination he has admitted that ***“it is correct to suggest that it is not mentioned in my complaint that accused broke the adjoining wall of our house and entered in our house without our knowledge. .... It is correct to suggest that I have not mentioned in my direct complaint that neighbours of our house informed Mithumal that original broker of both houses was late Abdul Razak Bhatti. It is correct to suggest that it is not mentioned in my direct complaint that it was further mentioned in fake entry No.162 that my deceased father sold out No.120 to accused Mushtaq Ali for Rs.50,000/- in the year 1990. It is correct to suggest that it is not mentioned in my direct complaint that accused Muhammad Uris and his son Mushtaq Ali were fraudulent persons and were involved in fabricating record. It is correct to suggest that it is not mentioned in my direct complaint that report was called by Deputy Commissioner Larkana on my application from the Mukhtiarkar Ratodero and such report was submitted by Mukhtiarkar on 22.06.2019. It is correct to suggest that no report was submitted on 22.06.2019 by Mukhtiarkar”.***

30. The matter did not conclude with the present complaint. The complainant also instituted proceedings under Sections 3 and 4 of the Illegal Dispossession Act, 2005, before



the competent court of law, wherein the appellant, along with his deceased father Muhammad Uris, as submitted by learned counsel, was acquitted vide judgment dated 20.11.2022, rendered by the learned II-Additional District Judge, Larkana.

31. In addition, the complainant filed a civil suit seeking Declaration, Possession, Compensation, and Mesne Profits. However, the said suit was also dismissed vide judgment dated 24.02.2025 passed by the learned Senior Civil Judge-I, Larkana, as the complainant failed to establish allegations of fraud and forgery during the civil proceedings before the court of competent jurisdiction.

32. The allegation against the appellant, Niaz Ali Siyal, and Sher Muhammad Siyal was that, in collusion with the main accused, they unlawfully mutated the revenue record in favour of the accused persons. In his testimony, the complainant concluded his statement by asserting that ***“the private accused have falsified and fabricated the record and are still in possession of both houses, while the official accused may have perhaps filed a fake report before the Deputy Commissioner.”***

33. It is indeed perplexing that the learned trial court proceeded to convict the accused solely on the basis of this vague and speculative assertion. In the prior civil litigation, the complainant failed to establish that the accused, Mushtaq Ali, had colluded with any official respondents to procure or prepare a fraudulent entry in the revenue record. Notably, during the lifetime of the complainant's father, and even subsequently, no legal action was initiated before any competent forum seeking possession of the disputed property.

34. It was only after the complainant's retirement from government service, and allegedly upon receiving certain information from one Mithumal, that he initiated litigation by filing a direct complaint under Sections 3 and 4 of the Illegal Dispossession Act, in addition to instituting a civil suit for possession. Yet, in all forums except for the direct complaint the



complainant remained unsuccessful. The conviction rendered by the learned trial court, in the absence of any cogent documentary evidence demonstrating the complainant's possession of the disputed property, reflects a misappreciation of the evidence available on record.

35. The alleged forgery in the revenue record pertains to the year 1990, whereas the complainant filed the Direct Complaint only on 28.03.2016, after an extraordinary and unexplained delay of approximately twenty-five (25) years. No plausible or satisfactory justification has been provided by the complainant for such an inordinate and startling lapse of time. Prior to filing the instant Direct Complaint, the complainant had initiated proceedings under the Illegal Dispossession Act on two separate occasions, both of which were dismissed by the learned trial court on the ground that the dispute was purely of a civil nature.

36. With respect to appellant Sher Muhammad, it is on record that he served as a Tapedar in the Revenue Department, Larkana, and was posted to said position on 18.07.2013, thirteen (13) years after the alleged transaction took place in 1990. Furthermore, it is an undisputed fact that in 1990, neither Niaz Ali held the office of Mukhtiarkar of Taluka Ratodero nor Sher Dil served as Tapedar. There is also no allegation in the Direct Complaint that these officials made or maintained any revenue entries pertaining to the transaction in question. Thus, holding them responsible for any alleged forgery or illegal mutation is wholly unsustainable and casts serious doubt upon the credibility and veracity of the prosecution's case.

37. The complainant has admitted that his father passed away in a hospital in Hyderabad; however, he failed to produce any death certificate from the concerned hospital during trial. Moreover, no documentary evidence was submitted from the service record of the deceased, who was a retired Headmaster from the Education Department, to substantiate the date or fact



of his death. The complainant claimed that his father passed away in 1989, yet in cross-examination, he conceded that the revenue record reflected an entry of his father's death only after a delay of twenty-nine (29) years. It is further notable that despite the complainant and his two brothers being well-educated, practicing advocates, they failed to take timely steps to update the revenue record regarding their father's demise.

38. The complainant has been an enrolled advocate. Even if, for the sake of argument, it is presumed that the transaction between the accused and the complainant's father was fraudulent, there is no explanation as to why the complainant and other legal heirs remained silent for more than twenty-five (25) years and made no efforts to recover possession of the property through appropriate legal means.

39. The complainant also testified that a portion of his family relocated from Naudero in 1994-95. However, to substantiate his claim of possession, he failed to produce any utility bills, such as electricity or Sui Gas bills, which in fact stand in the name of appellant Mushtaq Ali. Regarding the allegation of replacing or tampering with official records, learned counsel for the appellants has pointed out that the complainant only asserted his purported rights after his nephew was appointed as Additional Commissioner, Larkana, further raising questions regarding the bona fides of the complaint.

40. It is also important to note that prosecution witness Mithomal, whose testimony allegedly supported the complainant's version, was not produced after the case was remanded for retrial. During the initial trial proceedings, he had given a statement contradicting the complainant's version and had not supported the prosecution's case.

41. The upshot of the above discussion is that the complainant/prosecution has miserably failed to bring home the guilt of the appellants beyond reasonable doubt and it is a settled



proposition of law that for giving the benefit of the doubt to an accused there doesn't need to be many circumstances creating doubts if there is a single circumstance which creates reasonable doubt about the guilt of the accused, then the accused will be entitled to the benefit. In this respect, reliance can be placed upon the case of **MUHAMMAD MANSHA v. THE STATE reported in 2018 SCMR 772**, wherein the Hon'ble Supreme Court of Pakistan has held that:

**“4. Needless to mention that while giving the benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to be benefit of such doubt, not as a matter of grace and concession, but as a matter of right. It is based on the maxim, “it is better than one innocent person be convicted”. Reliance in this behalf can be made upon the cases of Tarique Parvez v. The State (1995 SCMR 1345), Ghulam Qadir and 2 others v. The State (2008 SCMR 1221), Mohammad Akram v. The State (2009 SCMR 230) and Mohammad Zaman v. The State (2014 SCMR 749).”**

42. It is a well-settled principle of criminal administration of justice that no conviction can be awarded to an accused until and unless reliable, trustworthy and unimpeachable evidence containing no discrepancy in the prosecution story. By taking the guideline from the case laws cited at (supra), I am of the view that in the present case, the complainant/prosecution story is overwhelmed under the thick clouds of doubt and the learned trial Court has not evaluated the evidence in its true perspective and thus arrived at an erroneous conclusion by holding the appellants are guilty of the offence. Thus, the instant Criminal Appeals No.S- 21 and 22 of 2023 are **allowed**. Consequently, the conviction and sentence awarded to the appellants named above by learned Special Judge Anti-Corruption (Provincial) Larkana vide impugned judgment dated 09.03.2023 are hereby set aside.



They are acquitted of the charge by extending the benefit of the doubt. The accused are present on bail their bail bonds stand cancelled and surety is discharge.

**JUDGE**