

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Appeal No.S-55 of 2022

Appellants: 1. Niaz Hussain son of Muhammad Hussain.
2. Ali Khan son of Muhammad Hussain.
3. Ayaz son of Niaz Hussain.
4. Peeral son of Sheral.
5. Soomar son of Sheral.
6. Altaf son of Niaz Hussain.
All by caste Panhwar.
Through Mr. Sajid Hussain Mahesar, Advocate.

Complainant: Haji Ghulam Hussain through Mr. Ghulam Sarwar
Soomro, Advocate.

The State: Through Mr. Imran Mubeen Khan, Assistant
Prosecutor General, Sindh.

Date of hearing: 05.10.2023

Date of decision: 05.10.2023

J U D G M E N T

SHAMSUDDIN ABBASI, J.:- This criminal appeal is directed against the judgment dated 28.10.2022, passed by learned Ist-Additional Sessions Judge, Mehar in Sessions Case No.525/2020 (*Re-Haji Ghulam Hussain Panhwar v/s. Niaz Hussain and others*), whereby the appellants after full dressed trial were convicted for offence under Section 3 of the Illegal Dispossession Act, 2005, and sentenced to suffer R.I for one year and to pay fine of Rs.50,000/- (Rupees Fifty Thousands only) each, which shall be paid to the complainant in terms of section 544 Cr.P.C. In case of default in payment of fine the appellants shall undergo S.I for three months more and it was ordered that the possession of the subject property would be restored in favour of the complainant.

2. After admission of the appeal, the appellants were admitted to bail vide order dated 10.11.2022 by this Court while allowing application under Section 426 Cr.P.C.

3. Learned counsel for the appellants as well as complainant/respondent No.1 while inviting attention of this Court towards statement dated 05.10.2023 signed by the appellants and the complainant alongwith their affidavits to the extent that they have patched up outside the Court and resolved their differences in the name of Almighty Allah and the complainant has recorded his objection for acquittal of the appellants. Learned counsel for the appellants submits that the offence under section 3 and 4 of the Illegal Dispossession Act, 2005 is compoundable and they have patched up and differences have been resolved, therefore, the appellants may be acquitted of the charge on the basis of settlement between the parties. Complainant Haji Ghulam Hussain Panhwar is present and reiterates the contents of the affidavits as well as points raised by learned counsel for the appellants and submits that the possession has been restored in his favour, therefore, he does not want to proceed further and has no objection if the appellants are acquitted of the charge by allowing instant criminal appeal.

4. Learned Assistant Prosecutor General has recorded no objection if the instant appeal is allowed on the ground that the alleged offence is compoundable and parties have entered into compromise and settled their dispute, therefore, the conviction and sentence of the appellants may be set aside.

5. Accordingly, instant Criminal Appeal is allowed in terms of compromise arrived at between the appellants and the complainant. In result thereof the appellants are acquitted of the charge and conviction and sentence awarded to the appellants are set aside. They are present on bail, their bail bonds are cancelled and surety discharged.

Judge

Manzoor