

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Acquittal Appeal No.S-75 of 2024

Appellant : Ashok Kumar S/o Shewal Das
Through Mr. Abdul Rehman Bhutto,
Advocate

Respondents : Haji Ghulam Nabi and others

Date of hearing : 17.07.2025

Date of Decision : 17.07.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— This acquittal appeal under Section 417(2) Cr.P.C read with Section 8-A of the Illegal Dispossession Act, 2005 is directed against the judgment dated 22.07.2024, passed by the learned Additional Sessions Judge, Kashmore, in Direct Complaint No.07 of 2021, whereby all accused persons were acquitted under Section 265-H(1) Cr.P.C of the charges under Section 3(2) of the Illegal Dispossession Act, 2005.

2. Heard learned counsel for the appellant and perused the available material.

3. The complaint was filed by the appellant on the premise that he had been dispossessed from (62-25) acres of land, situated in Deh Kacho Bahaduranpur, by the respondents on 28.04.2021, a day after he allegedly took possession pursuant to some revenue proceedings. However, a bare perusal of the trial court's detailed and reasoned judgment reveals that the appellant utterly failed to prove two essential ingredients required to attract the mischief of the Illegal Dispossession Act:

(i) *Lawful exclusive ownership or possession* of the subject land; and

(ii) *Illegal dispossession* there from by the respondents.

4. The trial court rightly observed that the appellant's own documentary evidence particularly revenue entry No.444 dated 22.01.2009, showed that the subject land was not in his exclusive ownership but was a jointly owned property having multiple co-sharers. No title deed, judgment, or conclusive proof of exclusive ownership or exclusive possession was produced. Even the claim of taking possession through revenue officials from 25.04.2021 to 27.04.2021 was not substantiated through any cogent documentary evidence such as possession memos or independent witnesses. The complainant's story of possession on one day and dispossession on the next from land consisting of multiple survey numbers scattered across different localities was rightly disbelieved by the trial court as improbable and unsupported by credible evidence.

5. Additionally, it has been admitted that the complainant had already instituted Civil Suit No. 93/2021 for possession against the same set of respondents, which was dismissed by both the trial court and the appellate court (Appeal No.75/2023). A civil revision against the concurrent findings of the two courts below is admittedly pending before this Court. Without awaiting the outcome of the said civil litigation, the appellant instituted the instant criminal complaint, thereby attempting to invoke criminal jurisdiction for what is essentially a disputed civil matter.

6. The trial court has given cogent reasons to discard the oral evidence of the complainant and his witnesses, who rendered evasive and inconsistent versions. It has also been noted that the Mukhtiarkar's evidence failed to confirm any lawful and documented handover of possession. The Court further noted that even the complainant conceded during cross-examination that many of the

respondents were co-sharers and the property had not yet been partitioned hence, the very question of illegal dispossession does not arise.

7. The scope of interference in an appeal against acquittal is limited. As held by the Hon'ble Supreme Court in *The State v. Abdul Khaliq* (PLD 2011 SC 554) and *Muhammad Akram v. The State* (2009 SCMR 230), unless the judgment of acquittal is perverse, arbitrary, or based on gross misreading or non-reading of evidence, it is not to be lightly interfered with.

8. In the present case, the impugned judgment does not suffer from any illegality, misreading, or non-reading of evidence. The trial court has applied its judicial mind and provided adequate reasoning. The appeal fails to point out any manifest error of law or fact justifying interference with the acquittal.

9. Accordingly, this Criminal Acquittal Appeal is dismissed in *limine*.

J U D G E

Asghar Altaf/P.A