HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Acquittal Appeal No.S-20/2025

Appellant/Complainant: Manee Shanker s/o Neebraj
Through Mr. Wasand Thari, Advocate.

Respondents:
1. Dodo s/o Haji Anwer
2. Sakhar s/o Haji Anwer.
3. Lal Muhammad s/o Haji Anwar.
4. Sajawal s/o Haji Anwer
   Through Mr. Harish Chander, Advocate (called absent)
5. The State
   Through Mr. Neel Parkash, D.P.G.

Date of Hearing : 15.10.2026

Date of Judgment : 15.10.2026

J U D G M E N T

Nisar Ahmed Bhanbhro, J: This Criminal Acquittal Appeal is directed against the Judgment dated 15-03-2025 passed by the learned Additional Sessions Judge-II, Tharparkar in Sessions/I.D Case No. 123/ 2024 (arising out of Complaint under section 3-4 of Illegal Dispossession Act, 2005) "*Re-Manee Shanker vs. Dodo and others"* whereby respondents/ accused were acquitted from the charge under section 245-H(1) Cr.P.C.

2. The facts in brief giving rise to the instant Criminal Acquittal Appeal are that appellant/ complainant filed Complaint under sections 3 and 4 of the Illegal Dispossession Act, 2005 against the respondents/accused stating therein that he is owner of residential Sikni plots No. 1337 and 1338 admeasuring 2500 sq.ft each total 5000 sq.ft, situated in Chachro Town, Taluka Chachro, District Tharparkar, which was purchased by him through registered sale deed No.188 dated 19-03-2015 from one Qurban Ali s/o Qazi Muhammad Suleman and such mutation entry was affected in his favour in Revenue record and possession was handed over to him. On 20-05-2017 when the complainant alongwith witnesses namely Khair Muhammad and Essar Das was present at the above said plots; where at 05:00 p.m respondents/ accused arrived; accused Dodo was having pistol while others were having lathies; they issued threats of dire consequences to the complainant. Accused Dodo made aerial firing and other

accused beaten and maltreated complainant. Accused Dodo asked him to vacate the plots but complainant refused, to which they again maltreated him; the above named witnesses tried to restrain but accused persons did not pay any head and forcibly dispossessed complainant from his plots and occupied the same.

3. It is pertinent to mention here that the complaint of the appellant was firstly dismissed vide order dated 01-06-2017 by learned Sessions Judge, Tharparkar @ Mithi; against said order, appellant/complainant preferred Criminal Revision Application before this Court, which was allowed and matter was remanded for decision on merits vide joint order dated 22-08-2014 passed in Criminal Revision Applications No. S-16 and S-17 of 2024. After hearing learned counsel for the respective parties and perusal of record, complaint was brought on regular file and then the respondents were indicted for the charge wherein they claimed trial. In order to prove charge complainant examined himself at Ex.3, his witnesses namely C.W-2 Khair Muhammad at Ex/04, C.W-3 Essar Das at Ex.05, C.W-4 Mukhtiarkar Muhammad Saleem at Ex/06, C.W-5 SHO/Inspector Nisar Alam at Ex.07. Statements of the accused under section 342 Cr.P.C were recorded, wherein they professed innocence and stated that plots in question are in name of their father and they have filed civil suit No. 113/ 2024 against complainant which is pending before the concerned court. Learned trial Court after hearing the parties and on appraisal of the evidence acquitted the respondents/accused on the ground that complainant failed to establish case of illegal dispossession against the respondents/ accused beyond reasonable shadow of doubt; hence this Criminal Acquittal Appeal.

4. Learned counsel for the appellant contended that learned trial court has committed error while appraising evidence of witnesses of the complainant and complainant being owner of property/ plots in question was illegally dispossessed on the show of force. He, therefore, prayed for indulgence.

5. Learned D.P.G supported the impugned judgment; whereas respondents / accused and their counsel chosen to remain absent.

6. Heard learned counsel for the appellant and learned D.P.G for the State. Perusal of record shows that as per appellant's case he purchased the property/ plots in question from one Qurban Ali through registered sale deed dated 19-03-2015 and such entry was mutated in the record of rights in his favour and

subsequently on 20-05-2017 the respondents/ accused forcibly dispossessed him from the property/ plots in question after beating him in presence of witnesses Khair Muhammad and Essar Das. Perusal of evidence of appellant and his witnesses shows that there are material contradictions therein. Moreso, the stance of the respondents/ accused is that their father Haji Anwar is owner of said property/ plots and such civil suit bearing No.113/ 2024 has been filed by them against the complainant and others which is pending before the concerned civil court. Such stance of the respondents/ accused finds support from the cross-examination of appellant/ complainant, who deposed that "*It is correct that accused have filed a civil suit No. 113/ 2024, in which I am defendant No.5, which is pending before Senior Civil Court.*" In such circumstances, the learned trial court has rightly observed that "*title of plots is also disputed which could only be resolved by the competent civil court where the litigation is admittedly pending*. *The complainant as well as his witnesses have failed to establish case of illegal dispossession against the present accused beyond reasonable shadow of doubt*."

7. Learned counsel for the appellant has failed to point out any illegality or material illegality in the impugned judgment requiring interference by this Court.

8. For the aforesaid reasons, I do not find any illegality, misreading or non-reading of evidence in the impugned judgment. Even otherwise, it is well settled principle of criminal jurisprudence that acquitted accused enjoys double presumption of benefit of doubt, one before the trial of the case and second after his acquittal and acquittal cannot be interfered without any strong and exceptional reasons which are lacking in the instant case. The instant Criminal Acquittal Appeal, therefore, fails and is accordingly dismissed.

JUDGE

"Saleem"