

ORDER SHEET  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD.

Cr.Acq.Appeal.No.S- 124 and 125 of 2014

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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01.11.2016.

None present for appellant.  
Mr. Mazhar Hussain Kalwar, Advocate for respondents.  
Mr. Shahid Shaikh, A.P.G. for the State.

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On the last hearing, learned counsel for the appellant was heard at length as well learned counsel for respondents was partly heard and the matter was adjourned for today. During this period, learned counsel for appellant has moved statement for withdrawal of his Vakalatnama.

Perusal of the impugned judgment, whereby respondents have been acquitted in the case of illegal dispossession, show that one lady and respondent No.1 were alleged to had occupied the suit premises *forcibly*. After full dressed trial, both the respondents have been acquitted by the trial Court. While dilating upon the merits of the case, it would be significant to add here that in acquittal appeal, accused enjoys double presumption of innocence as stamped by the trial Court. The controversy with regard to subject matter property is that both the parties are claiming ownership by way of sale agreement as well by registered deed. Question of forcible dispossession is very well answered by the trial Court. Being relevant portion of the impugned judgment in Paragraph No.10 is that:-

***“Thus, it is duty of the aggrieved person/complainant (occupier or owner) to establish and prove that he was in actual possession of disputed property when the accused caused his dispossession and ousted him from the property. The word dispossession refer to situation where complainant (may be occupier or owner) was deprived from actual physical possession of immovable property by the accused illegally or without due course of law. Thus, complainant in cases filed under this Act is not required to prove his title of the property but has to prove that he was in actual possession of the property, at the time of his dispossession (PLD 1967 Peshawar 157).”***

To reverse the findings of the appellate Court in acquittal appeal, appellant is required to establish that the impugned judgment is shocking, perverse and contrary to the settled principles of law. It is also settled that any benefit which causes dent in the case of complainant/prosecution is sufficient for acquittal of the accused. In the instant matter, the situation is *entirely* different and *prima facie* appeared to be one of civil nature dispute. In case of illegal dispossession issue, required to be proved, shall not be of '*unauthorized possession*' but shall require '*forcible dispossession*' first, which is answered by the trial Court after appreciating the evidence as above. The *entire* perusal of the judgment of the trial court shows that no illegality has been committed by the learned trial court and in absence thereof, a judgment of acquittal *legally* cannot be disturbed. Accordingly, instant Criminal Acquittal Appeal has no merits and is dismissed.

JUDGE

Tufail

