

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Crl. Acquittal Appeal No.S-129 of 2017.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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For katcha peshi.

Mr. Sundar Khan Chachar Advocate for appellant.
Mr. Abdul Rehman Kolachi, DPG for the State.

Date of hearing: 21-08-2017.
Date of Judgment: 21-08-2017.

J U D G M E N T

Aftab Ahmed Gorar J., Appellant/complainant Ghous Bux has preferred the instant appeal under section 417, Cr.P.C., assailing the judgment dated 08.06.2017, passed by learned 1st Judicial Magistrate, Pano Akil, whereby the private respondents involved in case FIR No. 07 of 2017 of P.S, Mubarakpur under sections 337A(i), 337F(i), 147, 148, 149,382, 477, 448, 427, 114, 504, 511 PPC were acquitted from the charges levelled against them.

2. According to prosecution case, the accused/respondents were charged by complainant that on 24.3.20-17, at plot of Arban Mahar situated in village Bhumi Deh Ariro, they committed theft of 3000 bricks, 20 bags of cement, 08 Belcha, 13 Taghariyoon and 3 handcrafts on the instigation of accused Mumtaz Mahar by loading on tractor trolly. They were also charged that they also broken boundary wall of plot and rooms situated inside the plot and beaten to the complainant party with kicks and fists and also misbehaved with the complainant party.

3. After completion of investigation, complete challan against

respondents submitted before the learned trial Court, where after framing of formal charge against them, the prosecution in order to prove its case against respondents produced four PWs. After recording statement of accused under section 342, Cr.P.C., hearing arguments of learned counsel for the parties and State counsel, the learned trial Court acquitted the accused/respondents from the charges levelled against them vide impugned judgment, hence the instant appeal has been preferred by the appellant/complainant.

4. Arguments of learned counsel for appellant and learned Deputy Prosecutor General for the State were and record perused.

5. Though respondents were directly nominated by the complainant for committing theft, breaking boundary wall of plot and rooms so also beating the complainant party with kicks and fists blows, but no specific role to any of the accused has been attributed though complainant in his cross-examination has admitted that accused were armed with pistols, hatchets and lathies, but none of them has received minor injury. It is apparent from impugned judgment that I.O during investigation has not recovered stolen property from the possession of accused and even no independent witness has been examined by prosecution. PW-4 admitted that memo of site inspection was prepared at the police station, which creates doubt in a prudent mind regarding false involvement of respondents in the present case.

6. It is settled law that the prosecution is duty bound to prove its case beyond any shadow of reasonable doubt against an accused person and it is

also settled that multiple doubts in the prosecution case are not required to record judgment of acquittal but a single reasonable doubt is sufficient to extend benefit of the same to the accused as a matter of right.

7. Apart from above, it is well-settled by now that there are certain limitations on the power of the Appellate Court to convert acquittal into a conviction and would not interfere with acquittal merely because on reappraisal of the evidence, it comes to the conclusion different from that of the court acquitting the accused, provided that the conclusions are reasonably possible. If, however, the conclusion reached by that court was such that no reasonable person would conceivably reach the same and was impossible then this court would interfere in exceptional cases on overwhelming proof resulting in conclusive and irresistible conclusion; and that too with a view only to avoid grave miscarriage of justice and for no other purpose. The important test visualized in these cases, in this behalf was that the finding sought to be interfered with, after scrutiny under the forgoing searching light, should be found wholly as artificial, shocking and ridiculous.

8. In view of what has been discussed above, I am of the firm opinion that the prosecution has miserably failed to prove its case against private respondents/accused beyond any shadow of doubt therefore, find no illegality in the impugned judgment of acquittal, which is based on proper appreciation of the evidence on record. Consequently, the present appeal being devoid of merit is dismissed in limine.

JUDGE