

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No. 590 of 2019

Date	Order with signature of Judge
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1. For orders on M.A. No. 9857 of 2019.
2. For orders on office objection as at flag "A".
3. For orders on M.A. No. 9858 of 2019.
4. For hearing of main case.

01st February 2021.

Mr. Irshad Ali Bhatti, advocate for applicant.

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Heard and perused record.

2. Since, it is an *appeal* thereby challenging acquittal by a competent court of law, hence at the outset, it would be relevant to reaffirm the well settled principle of *Criminal Administration of Justice* that '*in Criminal trial every person is innocent unless proven guilty and upon acquittal by a competent jurisdiction such presumption doubles*'. Such earned double presumption of *innocence* would not be disturbed unless and until it is established that impugned judgment was *prima facie* shocking, perverse and illegal thereby resulting into grave miscarriage of justice.

3. Keeping above settled proposition of law, it would be conducive to refer relevant paragraph No. 10, 11 and 12 of the impugned judgment are that:-

"10. The complainant has examined his two private witnesses, who have supported the version of complainant, but the complainant has himself contradicted his own version, hence, needless to say that when corroboration to the contradicted version is notified; the supporting version of witness ultimately be deemed to be contradicted.

11. The official witnesses viz Mukhtiarkar and SHO were also examined, who deposed that the accused persons are in occupation of the land in question. Since, as to determine the possession of accused persons to be legal or illegal; the complainant had to prove his ownership upon the land in question. The complainant has alleged to be the only legal heir of the previous owner of land in question and

has also submitted that the previous owner died issueless and there is no any close relative except the complainant to the deceased Noor Muhammad Samejo, hence the suit land devolved upon him. On the other hand the accused never denied their possession over the property and accused Noor Muhammad has claimed his ownership over same. It is the matter of record, that some of the civil suits were filed in respect of the property in question as well as revenue appeal and still a civil suit is pending before the Court of learned Senior Civil Judge, Sujawal.

12. Since, this Court in the present matter is confined to determine the legality of occupation, not to decide the ownership which is exclusive domain of the Civil Court. So far as to the question of legality of possession over the property in question is concerned; needless to say and as stated above, that the complainant himself admitted the sending of legal notice to the sugar mills on 31.01.2015, hence the point for determination was on 01.08.2015 the accused persons illegally dispossessed the complainant party or not and the legal notice of complainant shows that the possession of property in question was with the accused on 31.01.2015 that means the accused did not dispossess the complainant party from the land in question on 01.08.2015, therefore, my findings to this point are that the complainant has failed to prove his claim *prima-facie*. Hence, I answer this point as not proved.

4. Perusal of above in juxtaposition with pleas raised by learned counsel for the appellant reflects that this is not a case to reverse the findings of acquittal into conviction. Learned counsel for the appellant has failed to point out any illegality and irregularity committed by the trial Court, in absence whereof an appeal against acquittal cannot sustain *even*. Accordingly, instant appeal being devoid of merits is dismissed alongwith pending application(s)

JUDGE