

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No. 305 of 2020

Date _____ Order with signature of Judge _____

1. For orders on office objection as at flag "A".
2. For orders on M.A. No. 4557 of 2020.
3. For orders on M.A. No. 4556 of 2020.
4. For hearing of main case.

01st April 2021.

Mr. Arshad Riaz Mughal, advocate for appellant/complainant.
Mr. Ishaque Ahmed, advocate for respondents No. 1 and 2.
Mr. Talib Ali Memon, A.P.G. Sindh.

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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 of the impugned judgment which is that:

"On the perusal of record it appears that respondent No. 1 is father of complainant who gifted out the property/house in favor of complainant when she was minor and was residing with the complainant and wife in the same house till alleged dispossession on 11-05-2019. Respondent No. 2 is their neighbor and allegedly friend of respondent No. 1. Both respondents are senior citizens. Respondent No. 1 is residing on the ground floor whereas first and second floor of the house were rented out and the rent is being collected either by complainant or her mother. In

para No. 5 of complaint the complainant has alleged that they were living in the house peacefully but suddenly respondent No. 1 neglected her and her mother and started quarrelling with them and wanted to sell out the house to respondent No. 2 and due to that reason he illegally dispossessed them. Enquiry report submitted by SHO stated that there was family dispute between the complainant and respondent No. 1 being daughter and father whereas, respondent No. 2 was their neighbor who tried to resolve the matter. The respondent No. 1 has also filed civil suit for cancellation of gift which is pending before competent civil court. In these circumstances, respondents are not likely to be convicted if the case is proceeded further. Accordingly, the instant application is allowed and the respondents are acquitted under section 265-K Cr.P.C. Both respondents are on bail but today called absent due to worldwide situation in the outbreak of Corona Virus pandemic. However, the learned counsel for respondents is present. The order is passed and announced in open court. The bail bonds of respondents are hereby cancelled and sureties discharged.”

Parties are present. Admittedly appellant is daughter of respondent No.1 and claiming dispossession by her father. As per appellant she is living with her maternal uncle alongwith her mother, whereas, respondent No.1, who by profession is an advocate, contends that attitude of his wife and daughter was very cruel. Since issue of forcibly dispossession of wife and daughter covers under the Sindh Domestic Violence Act 2013, accordingly, impugned order is in accordance with law; instant appeal being devoid of merits is dismissed. However, learned Sessions Judge, Karachi Central shall direct the concerned Magistrate having jurisdiction to call the parties and ensure that appellant Ifza Ayub and her mother are nestled in the same premises wherefrom they were dispossessed, by taking all measures provided under the Act.

J U D G E