

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI

Criminal Acquittal Appeal No. 168 of 2023
[Ghulam Farid Jokhio versus Gohram & another]

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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Fresh Case.

1. For orders on M.A. No.3605 of 2023.
2. For orders on Office Objection a/w Reply as at Flag 'A'.
3. For orders on M.A. No.3606 of 2023.
4. For hearing of Main Case.

28-03-2023

Mr. Ashiq Muhammad, Advocate for the Appellant.

Adnan Iqbal Chaudhry J. - Urgency granted. Exemption granted subject to all just exceptions. This acquittal appeal is against Judgment dated 31-01-2023 passed by Judicial Magistrate-VI, Malir, Karachi, in SCMO No. 06/2021 acquitting the Respondents 1 and 2 (Gohram and Naseem) of the charge while keeping the case against the Respondent No.3 (Ahmed Ali) on dormant file as he was absconding. The joinder of the Respondent No.3 to this appeal is therefore erroneous. He is struck off.

2. The charge against the Respondents 1 and 2 was for offences under sections 448, 511, 506, 504 and 34 PPC in circumstances where it was alleged that on 06-07-2020 the said Respondents came onto the Applicant's plot with a tractor and attempted to dispossess him by force with criminal intimidation. However, given the delay of 4 months in lodging the FIR, the contradictory evidence of prosecution witnesses and the absence of any independent witness, the learned trial court found the allegations to be doubtful and acquitted the Respondents 1 and 2.

3. Heard the learned counsel and perused the record.

4. When confronted with the delay of 4 months in lodging the FIR, learned counsel submits that the Appellant had reported the matter promptly but the police did not lodge the FIR until the title of

the property was verified. But even that letter by the Appellant is dated 17-07-2020 and submitted to the office of the SSP Malir, not the concerned police station. In fact, the letter of the Mukhtiarkar to the ASI of P.S. Steel Town dated 01-12-2020 shows that the Applicant had not approached the concerned police station until November, 2020. Such delay clearly created doubt over the incident as alleged.

5. The property claimed by the Appellant is said to be Plot No. 113 in village Haji Eisab Jokio in deh Joreji allegedly allotted to him in 2013 by the Land Utilization Department by way of a Sanad issued under the Sindh Goth-Abad (Housing Scheme) Act, 1987. But then, the Sanad and the accompanying challan both state the property to be a built-up house, whereas the evidence was that the subject plot was open to sky and was situated behind the Appellant's residence. The measurement of the plot is given as '850 square yards', which is also in excess of the area of 2 ghuntas that can be allotted under the Sindh Goth-Abad (Housing Scheme) Act, 1987, making the Appellant's Sanad doubtful.

6. It was alleged by the prosecution that during the alleged trespass a fight had ensued between the parties, but then there was no report of any injury to either side. The father of the complainant who was allegedly caught-up in such fight was not produced as witness. The tractor allegedly brought at the time of the incident was never identified and was no-where to be found.

7. In view of the foregoing, this acquittal appeal is without merit. Same is dismissed *in limine*.

JUDGE