

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Revision Application No. S-97 of 2023

(*Asadullah Soomro Vs. The His Highness Mir Ali Murad Khan Talpur & others*)

1. For Orders MA No. 7321/2023 (U/ A)
2. For Orders on office objection.
3. For orders MA No. 7322/2023 (Ex./ A)
4. For hearing of main case.

04-12-2023.

Mr. Safdar Ali Bhatti, advocate for the applicant.

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1. Granted.
2. Over ruled.
3. Granted.
4. The applicant by joining the trial sought for their acquittal under section 265-K Cr.P.C in a complaint which was filed for his prosecution u/s 3/4 of Illegal Dispossession Act, 2005 by the private respondent; it was dismissed by learned IVth Additional Sessions Judge, Khairpur vide order dated 06-10-2023, which is impugned by him before this Court by way of instant Crl. Revision Application.

It is contended by learned counsel for the applicant that the civil dispute between the parties on the subject property is pending before the Civil Court having jurisdiction and provisions of Illegal Dispossession Act, 2003, were not satisfied; therefore, the regular trial of the applicant would not raise any probability or possibility of his conviction. By contending so, he sought for setting aside of the impugned order with premature acquittal of the applicant.

Heard arguments and perused the record.

Admittedly the complaint has been brought on record after an inquiry suggesting prima-facie case against the applicant worth trial. In that situation the premature acquittal of the applicant by way of an application u/s 265-K Cr.P.C would be unjustified. The civil litigation between the parties on subject property may be pending before Civil Court having jurisdiction but its pendency itself is not enough to record premature acquittal of the applicant without providing chance to the private respondent to prove his case at trial, which is guaranteed under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973. Even otherwise, it is settled by now that the civil and criminal liabilities could go side by side. No illegality is noticed which may justify this Court to make interference with impugned order by way of instant Crl. Revision Application, it is dismissed in limine.

Judge

Nasim/P.A