

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Acquittal Appeal No.S-109 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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Mr. Khadim Hussain Soomro, Advocate for appellant.
Mr. Shawak Rathore, Deputy Prosecutor General.

Date of hearing 25.04.2022
Date of judgment 25.04.2022

J U D G M E N T

SALAHUDDIN PANHWAR, J,- Through present criminal acquittal appeal, appellant / complainant has assailed the judgment dated 14.04.2021 passed by learned IIIrd Additional Sessions Judge, Shaheed Benazirabad in Sessions Case No.882 of 2017 (Re: Zuhaib Raza v. Abdullah and others) for offence under Section 3&4 of Illegal Dispossession Act, 2005, whereby respondents / accused have been acquitted of the charge.

2. Briefly, the facts of the prosecution case are that on 28.10.2017 complainant Zuhaib Raza Zardari filed complaint No.1901 of 2017 alleging therein that he is owner of agricultural land admeasuring 04-00 acres formed out of Survey No.88/4, situated in Deh 25 Dad, Tapo Jari, Taluka Nawabshah District Shaheed Benazirabad, which is alleged to have been forcibly occupied by the respondents / accused on the show of weapons and besides issued threats to complainant.

3. Heard learned Counsel for appellant / complainant as well D.P.G and perused record. Paragraph No.15 of the impugned judgment being relevant is reproduced hereunder:-

“15. On the other hand the accused persons claim themselves to be residents of disputed land in the name of village Ghulam Rasool Shah since their forefathers. They have also produced the old manual NICs of their forefathers, certificates of domicile, passport, forms-B, copies of electoral roles showing themselves to be the residents of village Ghulam Rasool Shah. They also claim situation of Government School & Masjid in their village, which has also been admitted by the prosecution witnesses. In the circumstances, I am of the humble view, that the parties are actually disputed over demarcation of survey land & the village area of village Ghulam Rasool Shah, the jurisdiction whereof lies with the Revenue Authorities”

4. While considering the contentions raised by learned Counsel for appellant / complainant in juxtaposition of adjudication by the learned trial Court, this is not the case of illegal dispossession. Besides, criterion of acquittal appeal is entirely different and appellant / complainant has failed to demonstrate that impugned judgment is shocking, perverse and illegal and such ingredients are absolutely lacking in this case. It is well settled principle of criminal administration of justice that if there is single doubt in prosecution case, the benefit of such doubt must be extended in favour of accused as a matter of right. Interference in a judgment of acquittal is rare and the prosecution must show that there are glaring errors of law and fact committed by the Court in arriving at the decision, which would result into grave miscarriage of justice; the acquittal judgment is perfunctory or wholly artificial or a shocking conclusion has been drawn. The Court of

appeal should not interfere simply for the reason that on the reappraisal of the evidence a different conclusion could possibly be arrived at, the factual conclusions should not be upset, except when palpably suffering from serious and material factual infirmities. Said accused have acquired now a triple presumption of innocence which could not be dispelled by the prosecution. Reliance is placed on the case of **The State v. Abdul Khaliq (PLD 2011 SC 554)**.

5. In view of above, present appeal being devoid of merits is hereby dismissed.

JUDGE

Shahid

