

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Acquittal Appeal No.758 of 2024

(Wajid ur Rehman Vs. The State and another)

Date	Order with Signature of Judge
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Present:
Syed Fiaz ul Hassan Shah; J

For hearing of main case

08.12.2025

Mr. Maqbool Ahmed, Advocate for the appellant.
Mr. Ali Haider Saleem, Addl. P.G. Sindh a/w SIP Ameeruddin of
P.S. Sharafi Goth.
Respondent No.2 Muhammad Mushtaq present in person.

Syed Fiaz ul Hassan Shah; J: The appellant has challenged the impugned order dated 09.10.2024 passed by the learned Xth Judicial Magistrate, Malir, Karachi, in Cr. Case No.143 of 2023 arising from Crime No.219 of 2023 under Section 381 PPC of P.S. Sharafi Goth whereby the learned trial Court has acquitted the respondent No.2 from the charge after examining two prosecution witnesses through the cogent and well-reasoned order passed on respondent No.2's application under Section 265-K Cr.P.C.

2. I have heard the learned counsel for the appellant and the learned Additional Prosecutor General Sindh and perused the record with their assistance. The learned counsel for the appellant has failed to demonstrate any illegality and / or material irregularity in the impugned order.

3. I do not find any merits in the arguments of learned counsel for the appellant that malafide attributes to the respondent No.2 who after resignation from the duty has appeared at late night in the company during one month's advance notice period as required to accept the resignation. There is no direct evidence with regard to the contention of the learned counsel for the appellant that the respondent No.2 has stolen ECM Electric card installed in the Suzuki vehicle No.LB-4063 which was parked near the gate of company. The evidence of PW-1 Wajid ur Rehman has not attributed any specific role towards the respondent No.2 either in his statement under Section 154 Cr.P.C. or deposition before the trial Court that he came to know that respondent No.2

has stolen the ECM electric card, however, he has entirely failed to discharge the burden with regard to his “personal knowledge” and as to how and in what manner he has come to know about the alleged fact that respondent has stolen the ECM electric card which was essentially required to discharge through oral testimony of eyewitnesses or through other modes.

4. On the contrary, PW-2 Muhammad Ayoob, who is the eyewitness being the Chowkidar of the company, has not supported the version of the complainant. Rather, he has deposed that respondent Mushtaque Ahmed had come to the company and delivered the keys. He has not deposed anything with regard to the stolen case property (ECM electric card).

5. In view of the failure to discharge the static burden of proof, the only situation leaves for the complainant is to produce the circumstantial evidence which is also lacking in the present case in view of the non-recovery of the case property despite the arrest and incarceration of the respondent. The PW-2 Muhammad Ayoob has admitted that CCTV cameras are installed but adapted to discharge the burden by voluntarily deposing that where the vehicle was parked, no CCTV cameras was installed. This is again in contradiction to the versions recorded in the FIR that the vehicle was parked outside the gate of the company and it is unacceptable for a prudent mind that CCTV cameras would not cover the main gate of the company.

6. I do not find any illegality or material irregularity in the impugned order coupled with the fact that the respondent No.2 being accused has already been acquitted by the trial Court and the said respondent has a legal safeguard under the doctrine of double innocence, I, therefore, dismiss the instant criminal acquittal appeal being devoid of merits.

J U D G E

Asif