

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Acquittal Appeal No. S- 62 of 2024.

Date of hearingOrder with signature of Judge.

1. For orders on M.A No. 2790 of 2024.
2. For orders on office objections as flag A.
3. For orders on M.A No. 2791 of 2024.
4. For hearing of main case.

27.6.2024.

Appellant is present in person.

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As to the office objection and in respect to his appeal, appellant present contends that he was made to face lengthy trial despite availability of decree as passed by the Civil Court in respect to the entitlement of land present and brought before the Investigating Officer he was made to suffer. That on account of the Civil Court decree it was a fit case wherein he was liable to be discharged. Applicant further contends that the impugned order failed to consider that he was legally entitled to the said land as such wherein he was only acquitted on doubt his rights in respect to the land in question are liable to be prejudiced when they were already determined by the Civil Court that in the said circumstances his decree obtained has become to exposure. It is also contended that the Medical Certificate since challenged, the complainant failed to appear before the Board. In support of his contentions, applicant has placed reliance upon reported case of Inayatullah v. The State (2019 Cr. L.J 1392).

I have gone through the impugned order wherein on the allegation of aggression and causing injury under Section 337-F(v) and 337-H(2) PPC, after full dressed trial as to the point No.1 of determination of the charge, same was determined as doubtful and acquittal was allowed. His contention as to the medical certificate ultimately not determined on account of failure of participation of the alleged injured person before the Medical Board. As such being a non-determination as such has already been considered by the learned trial Court resulting in his acquittal. It may be

observed that though the Criminal Court of law especially in the present trial was well empowered to determine the charge as framed in the matter, resulting order is liable to be concluded on the basis of a positive evidence. Whether in favour of or against the party. In the present case no material has been shown whereby the determination can be made then already determined by the learned trial Court wherein apparently considering the evidence including the Medical Certificate on account of the defect as pointed out the determination of the defect has come up. The same however, is not a medical evidence of the injury not having been occurred at all. As such positive evidence in favour of the applicant was never present. As to the fear of the applicant that the determination on account of proceedings, his rights as to the Civil determination of land and its entitlement thereof and same be put to exposure is apparently based upon misconception of law. It is to be observed that determination of rights and accordingly entitlement of civil nature are determined by the Civil Court and before the Criminal Court only the matter of framing of the charge was present. The impugned judgment even otherwise has correctly not given any discussed as to the said entitlement and the rights of the parties in respect to the land where the incident is said to have taken place. The fear is being based upon misconception having no merits is found of no validity. On account of foregoing, no merits shown or found present, the present Criminal Acquittal Appeal fails having no merits and stands dismissed in limine accordingly.


JUDGE

Shahir