

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

Criminal Acquittal Appeal No. S-64 of 2020

Appellant: Khawand Dino Dal, through Mr. Ashfaq Hussain Abro, Advocate.

Respondents: The State through Mr. Aitbar Ali Bullo, Deputy Prosecutor General, Sindh.

Date of Hearing: 17.06.2022

Date of Judgment: 17.06.2022

J U D G M E N T

MAHMOOD A. KHAN, J.- This Criminal Acquittal Appeal has been filed against the Judgment dated 12.11.2020, passed by learned Civil Judge & Judicial Magistrate-V (MTMC), Shikarpur in Criminal Case No. 95/2019 (150/2019-V) (*re-The State v/s. Riaz and others*), emanating from F.I.R. No.02 of 2020 for offence under sections 337-F(i), 337-A(i), (iii), 147, 148, 149, 114, 506/2 P.P.C registered at Police Station 20-Miles, whereby the proposed accused in the matter were acquitted after full length trial. The appellant/complainant having aggrieved and dissatisfied with the impugned judgment has filed instant appeal.

2. The facts in nutshell are that complainant has land in deh Dengaro, Taluka Garhi Yasin and previously accused Riaz Dal party had been tenant to the complainant in the said land but complainant then had withdrawn tenancy. On the day of incident i.e. 25.06.2020 at 06:00 p.m. complainant alongwith his sons namely Khalid Ahmed, Munir Ahmed and Farooque Ahmed, were available at the subject land beside village where accused Riaz armed with hatchet, Bagh armed with gun, Seengar alias Karo armed with lathi, Arbab alias Arbalo armed with hatchet, Farman armed with lathi, Babar armed with lathi came there. Accused Bagh instigated rest of the accused that Khanwand Dino had withdrawn tenancy from them without reason; hence he be taught a lesson. Whereupon accused Riaz caused backside hatchet blow to P.W. Khalid

Ahmed on his head, accused Seengar alias Karo caused lathi blow to P.W Munir on his left arm above elbow, right knee and left buttock, accused Arbab alias Arbelo caused backside hatchet blows to P.W Farooque Ahmed on his right shoulder and back and accused Bagh caused butt blows of his gun to complainant on his left eyebrow, on his nose and back. Thereafter accused Riaz threatened the complainant party of dire consequences in case they did not give the land to them on tenancy. Then the complainant and his injured P.Ws came at police station and obtained letter for treatment and after getting treatment from hospital, complainant got the F.I.R. registered to the effect of the incident.

3. Learned counsel for complainant/appellant in the matter apart from the grounds raised in the memo of appeal further contends that the learned Trial Court has only discussed injuries as appearing in the M.L.O report, whereas the deposition of the injured persons as made in the Court were considered, although no cross examination in this regard was made and in the said circumstances the same were liable to be entertained. He further contends that the learned Trial Court in the matter has altogether failed to discuss the element of threats of dire consequences being an offence by itself, which was brought before the Trial Court and despite not being put to challenge in the cross examination having not been entertained. He lastly contended that the impugned judgment may be *set-aside* and the accused/ respondents may be convicted.

4. Learned Deputy Prosecutor General in the matter, who was only put to notice by order dated 03.12.2020, however supports the impugned judgment. He has specifically pointed out towards findings in the judgment being in consonance with the M.L.O report present.

5. Having heard the learned counsel and gone through the record. Apparently, the Judgment as impugned in the matter is based upon differences of the depositions and the M.L.O report, wherein the learned Trial Court was pleased to consider that the victim himself could not be excused to depose about the alleged injuries, which were not found present in the M.L.O report. The contention of the learned counsel for the

appellant as to the threats of dire consequences is found misplaced as the substantial element being injuries have not been proved and the Court coming to the said conclusion could hardly be blamed for not considering the element of threats separately.

6. In view of the discussion hereinabove whereas no element has been shown to this Court whereby the impugned Judgment is found to be suffering from illegality or misreading and non reading of the evidence. Accordingly, this Criminal Acquittal Appeal is found to have failed and as such stands dismissed as having no merits.


Judge

Manzoor