

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Jail Appeal No. S- 42 of 2025

Date of hearing	Order with signature of Judge
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For hearing of case.

1. For orders on MA No.3677/2026
2. For orders on MA No.3678/2026
3. For hearing of main case.

Appellants: 1) Ghulam Qadir S/O Muhammad Shareef,
2) Jan Muhammad son of Muhammad Shareef,
3) Muhammad Hayat S/O Muhammad Shareef
4) Nawab Ali S/) Muhammad Jeal Mahar,
5) Rehman S/O Yar Muhammad, Mahar,
6) Khadim S/O Samano, Mahar,
7) Lutuf S/O Bahadur Ali Mahar,

Complainant: Muhammad Yaseen S/O Abdul Jabbar,
Shah

Respondent: The State through Muhammad Raza
Katohar, Deputy Prosecutor General.

Mr. Muhammad Qayoom Arain, Advocate for Appellants.

Mr. Shafi Muhammad Mahar, D.P.G.

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Date of hearing & Order: **06.10.2026.**

ORDER.

SURESH KUMAR, J.- Through instant Criminal Jail Appeal,
the appellants abovenamed have assailed the judgment dated
16.04.2025 passed by learned Additional Sessions Judge-II Mirpur

Mathelo, in Sessions case No.24 of 2020 Re: Syed Muhammad Yaseen Shah vs. Ghulam Qadir and others whereby appellants have been convicted for offence under Section 3(2) of Illegal Dispossession Act, 2005 and sentenced to undergo imprisonment for ten years and to pay Rs.140,000/-, in default whereof to serve six months more in prison; the appellants has also been directed to pay compensation to the complainant for Rs.200,000/- (rupees two lacs) and in default thereof, same shall be recovered from them as arrears of land revenue. The Mukhtiarkar and the S.H.O. concerned were directed to restore possession of the disputed property to the complainant.

2. During the pendency of the instant appeal, both parties have compromised the matter outside the court, and in this regard, they have filed joint applications under Sections 345(5) and 345(6) of Cr.P.C along with supporting Affidavit of complainant. Respondent No.1/complainant Muhammad Yaseen Shah, present in person, submits that possession of the property in dispute has been handed over to him; therefore, he, with the core of his heart, has forgiven the appellants; hence, they have filed compromise applications jointly, and he does not want to prosecute the appellants anymore, and he has no objection if these applications are allowed and the appellants are acquitted of the charge.

3. Learned Counsel for the appellants submits that the appellants has already put the complainant under peaceful and vacant possession of the land in dispute. He, therefore, submits that by granting compromise applications, the appeal may be disposed of, and the appellants may be acquitted of the charge.

4. Learned D.P.G has recorded his no objection if the compromise applications are allowed.

5. A joint application for compromise between the appellants and the complainant/respondent, supported by affidavits, has been duly recorded. The complainant/respondent has also provided a statement confirming that possession of the disputed property has been relinquished to him, and consequently, he raised no objection to the acquittal of the appellants/accused from all charges, including the imposition of any fine. This statement has also been recorded.

6. The appellants/accused were convicted under subsection (2) of Section 3 of the Illegal Dispossession Act, 2005. The Illegal Dispossession Act 2005 does not specify whether the alleged offence is compoundable or non-compoundable. Section 9 of the Act mandates that, except where otherwise specified, the provisions of the Criminal Procedure Code, 1898, shall govern all proceedings conducted under the Act. Therefore, it is my considered view that a compromise effectuated under the Act must be regarded as a compromise under Section 345 of the Criminal Procedure Code.

7. It is important to note that the enumeration of offenses in Section 345 of the Criminal Procedure Code is clear and unequivocal, thereby eliminating any doubts or uncertainties and serving as a complete and comprehensive framework for the compounding of offences. The prevailing judicial consensus asserts that the Legislature has established, within this section, the criteria for distinguishing between offences that pertain solely to individuals and those that concern the interests of the state. Courts cannot exceed this prescribed framework or impose an alternative standard. The alleged offence is contrary to public policy or against the State. The alleged offence can be compounded as it fulfills all the conditions outlined in Section 345 of the Criminal Procedure

Code. In similar circumstance this court has held in the case of Waliullah Shah Mashwani vs. Muhammad Usman Brohi and another (2025 P.Cr.L.J 183) as under :-

“---S. 3---Criminal Procedure Code (V of 1898), Ss. 345(5) & 345(6)---Illegal dispossession---Compromise---Scope---During the pendency of the instant appeal, both parties had compromised the matter outside court, and in that regard, they had filed joint applications under Ss. 345(5) & 345(6), Cr.P.C, along with supporting affidavit of complainant---Complainant submitted that possession of the property in dispute had been handed over to him; therefore, he, with the core of his heart, had forgiven the appellant; hence, they had filed compromise applications jointly and he did not want to prosecute the appellant anymore and he had no objection if the applications were allowed and the appellant was acquitted of the charge---Validity---Appellant-accused was convicted under subsection (2) of S.3 of the Illegal Dispossession Act, 2005---Illegal Dispossession Act, 2005, did not specify whether the alleged offence was compoundable or non-compoundable---Section 9 of the Act mandated that, except where otherwise specified, the provisions of the Criminal Procedure Code, 1898, shall govern all proceedings conducted under the Act---Therefore, a compromise effectuated under the Act must be regarded as a compromise under S.345 of the Criminal Procedure Code---Moreover, it is recognized that parties to a dispute may reach an amicable resolution, signifying their commitment to co-exist in peace, tranquility, and harmony---Such principle reflected the legal philosophy that encouraged the settlement of disputes

through mutual agreement, thereby promoting social stability and reducing the burden on the judicial system---In relation to the non-compoundability of specific offences, it was critical to interpret such provisions within the context of individual cases---Legal precedents suggested that a beneficial interpretation of statutory provisions should be favoured, allowing Courts to consider in accordance with the facts and circumstances of each case rather than applying a rigid interpretation---Such approach aligned with the broader legal philosophy of justice and equity, emphasizing that the spirit of the law should guide judicial outcome to foster reconciliation and uphold community harmony---In light of the compromise reached between the parties outside the Court, the complainant's decision not to pursue the case and his lack of objection to the appellant's acquittal, it was not appropriate to uphold the conviction---Therefore, in order to maintain cordial relations between the parties in future, the application under S.345(5), Cr.P.C., was granted; resultantly, the application under S.345(6), Cr.P.C. was accepted---Appellant was acquitted of the charge by way of compromise”.

8. Further reliance is placed on the case of Zulifqaruddin vs. State and others (P.Cr.L.J 2022 SCM Cr.C 40), Shahid vs. State and another (2017 YLR Note 81), Ali Raza vs. The State and other (PLD 2013 Lahore 651). In the all above cases compromise was accepted in non-compoundable offences. In case of Ijaz and another vs. Mst. Manadia (PLD 2016 Pesh. 26), offences related to special laws such as the Ant-Terrorism Act (ATA) were traditionally non-compoundable. However compromise between parties have been acknowledged by Honourable Peshawar High Court and this court.

Similarly, Abdul Wahab and 3 others vs. Additional Sessions Judge, Okara (PLD 2012 Lah. 305) in the cases of Abdul Wali and Abdul Wahab, compromises were reached between the parties during the pendency of the cases before trial Court under section 3 and 4 of Illegal Dispossession Act, 2005. The trial court accepted these compromise but following acquittal of accused, some parties sought a review and attempted to reopen the case on certain grounds. Both Lahore and Peshawar High Courts declined to set aside trial court's findings, thus affirming the recognition of the compromise made between parties.

9. It is recognized that parties to a dispute may reach an amicable resolution, signifying their commitment to co-exist in peace, tranquility, and harmony. This principle reflects the legal philosophy that encourages the settlement of disputes through mutual agreement, thereby promoting social stability and reducing the burden on the judicial system. In relation to the non-compoundability of specific offences, it is critical to interpret such provisions within the context of individual cases. Legal precedents suggest that a beneficial interpretation of statutory provisions should be favored, allowing courts to consider in accordance with the facts and circumstances of each case rather than applying a rigid interpretation. This approach aligns with the broader legal philosophy of justice and equity, emphasizing that the spirit of the law should guide judicial outcomes to foster reconciliation and uphold community harmony.

10. In light of the compromise reached between the parties outside the court, the complainant's decision not to pursue the case, and his lack of objection to the appellant's acquittal, it is not appropriate to uphold the conviction. Therefore, in order to

maintain cordial relations between the parties in future, the application under Section 345(5), Cr. P.C. is hereby granted; resultantly, the application under Section 345(6), Cr.P.C. is accepted. The appellants above-named are acquitted of the charge by way of compromise. They are present on bail; their bail bonds are cancelled and surety is discharged.

11. Criminal Jail Appeal stands disposed of in the above terms.

JUDGE

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