

JUDGMENT SHEET  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**(JUDICIAL DEPARTMENT)**

**Criminal Appeal No.100/2020**

**Muhammad Hafeez**  
Versus  
**Muhammad Ameen & others**

Appellant by: Mr.Saad Abdullah Bhatti, Advocate  
Respondent No. 1 by: Syed Jahanzeb Javed, Advocate  
Respondents No.2 to 4 by: Mr. Muhammad Jameel Malik,  
Advocate.

State by: Mr. Zohaib Hassan Gondal, State  
Counsel alongwith Shahid Wariach SI  
& Anaar ASI.

Date of Hearing: 17.09.2020

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**Ghulam Azam Qambrani, J.:-** This appeal has been filed against the judgment dated 06.03.2020 (hereinafter be called as impugned judgment), passed by the learned Senior Civil Judge, Islamabad- East, in case F.I.R 46 dated 01.02.2019, under Sections 506(ii), 448, 440, 148, 149 PPC registered at Police Station Khanna, Islamabad, whereby respondents No.1 to 4 were acquitted from the charge.

2. Briefly stated facts of the case as narrated by the complainant, Muhammad Hafeez s/o Muhammad Hanif are that he purchased an under construction house (grey structure) measuring 2-marlas bearing khewat No. 959, khatooni No. 1241, khasra No. 259, situated at Bilal Town, Khanna, against the sale consideration of Rs.650,000/- from his hard earned money, where he sometimes used to visit but due to ailment of his mother, he could not visit said house for some days, whereas on 05.05.2018, when the complainant visited the said house, he found that respondent/ accused Ashiq is in illegal occupation and trespassed into his house. On asking, respondent/ accused Ashiq replied that he is owner of the said house and he can call to those persons from whom he has purchased the said house, whereon appellant said

that the house belongs to him. However, at 12:00 PM, respondents/accused Sohrab, Riyasat, Basheer Abbasi, Ch. Taswar, Ameen and Zahoor, duly armed with weapons arrived there and stated that the house belongs to them and they have sold out the said house to Ashiq and gave threats of dire consequences that he would not be alive, if turned towards the said house, hence the above said FIR was lodged.

3. After registration of F.I.R, the investigation was completed and report under Section 173 Cr.P.C was submitted. Formal charge was framed against the accused/ respondents to which they pleaded not guilty and claimed trial. Therefore, the prosecution evidence was summoned. In order to prove the case, prosecution examined the following witnesses:-

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|-------|-------|--|
| (i)   | PW.1  | Muhammad Hafeez son of Muhammad Hanif complainant, |
| (ii)  | PW.2  | Muhammad Arif son of Abdur Razzaq,                 |
| (iii) | PW.3  | Muhammad Anar ASI,                                 |
| (iv)  | PW.4. | Raja Khalid Mehmood s/o Raja Abdul Aziz.           |

4. Statements of respondents No. 1 to 4/accused under Section 342 Cr.P.C. were recorded. They claimed innocence. They did not opt to record their statements on oath as envisaged under Section 340 (2) Cr.P.C.

5. After recording evidence and hearing arguments of the learned counsels for the parties, the learned Senior Civil Judge-I (Judicial) (East), Islamabad, passed the impugned judgment, dated 06.03.2020 whereby extending benefit of doubt acquitted the respondents. Feeling aggrieved, the appellant/complainant has filed the instant appeal.

6. Learned counsel for the appellant contended that the learned Trial Court in para-4 of the impugned judgment has wrongly mentioned the names of PW-1 as Saira Zahid (complainant), and PW-2 is Muhammad Arif son of Muhammad Abdur Razzaq, whereas the complainant of the instant case is Muhammad Hafeez son of Muhammad Hanif, and the name of PW-2 is Muhammad Arif son of Muhammad Abdur Razzaq. When confronted, the learned counsel for the respondents submitted that the names of PW-1 and

PW-2 have wrongly been mentioned in the para-4 of the impugned judgment.

7. In view of the above, with the concurrence of the learned counsel for the parties, the instant matter is remanded to the learned Trial Court with a direction to decide the same afresh after properly scanning and evaluating the material available on record within a period of one month after receiving the certified copy of this judgment.

~~(GHULAM AZAM CAMBRANI)~~  
JUDGE

S.Akhtar