

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

Criminal Appeal No. 181 / 2017

Mohammad Jibran Nasir

Versus

The State, etc.

Appellant by:	Mr. Moazzam Habib, Advocate.
State by:	Mr. Zohaib Hassan Gondal, State Counsel with Nasrullah, A.S.I.
Date of Decision:	08.07.2020.

Ghulam Azam Qambrani, J.: Appellant (Mohammad Jibran Nasir S/o Nasir Azhar Siddiqui) seeks setting aside of impugned order dated 23.01.2017, passed by the learned Judicial Magistrate, Islamabad-West, whereby respondents No.2/accused (hereinafter be called as “*respondent*”) was acquitted.

2. Briefly stated facts of the prosecution case are that the appellant, who is one of the eight complainants, got lodged F.I.R No.569 dated 19.12.2014 with Police Station Aabpara, Islamabad, under Section 506 (ii) of Pakistan Penal Code, 1860, Islamabad, against respondent alongwith other unknown person with the averments that he had issued death threats to the complainants and hundreds of other citizens through a press release of the Lal Masjid Shuhada Foundation which is associated with respondent.

3. After usual investigation, report under Section 173 Cr.P.C was submitted before the learned trial Court on 01.04.2016, by placing the respondent in Column-II. Said respondent filed an

application under Section 249-A Cr.P.C whereas, the appellant filed an application under Sections 242, 244 Cr.P.C for framing of charge and recording of evidence, but the application filed by the appellant was dismissed, whereas the application filed by respondent No.2 was accepted by the learned Judicial Magistrate, Islamabad– West, vide order dated 23.01.2017, hence, the instant appeal.

4. Learned counsel for the appellant contended that acquittal of the respondent was made on the basis of opinion of the police, as such, the impugned order is illegal and liable to be set-aside; that the learned trial Court has decided the matter without recording the statement of the appellant; that the respondent No.2 is a habitual offender and his name is included in the list of proscribed persons in the 4th Schedule of the Anti-Terrorist Act, 1997. Lastly, submitted that there was sufficient material available on record against the accused person, as such, the impugned order is liable to be set-aside.

5. On the other hand, learned State counsel supported the impugned order passed by the learned trial Court.

6. Argument heard; record perused.

7. Minute perusal of the record reveals that the name of respondent No.2 Maulana Abdul Aziz is placed in column 2 of the Report under Section 173 Cr.P.C. During investigation, spokesman of respondent No.2 has clearly denied issuance of press release attributed to respondent No.2 and stated that he has not issued any

such press release. Perusal of press release at page No.25 of this appeal reveals that it does not bear the signature of respondent No.2. Further, in the report under Section 173 Cr.P.C submitted by the police, it is clearly mentioned therein that no cogent evidence is available on record against respondent No.2. As such, in the absence of any incriminating material, the learned trial Court has rightly acquitted the accused/ respondent No.2 without framing of the charge against him, as there was no probability of any conviction of the accused.

8. Moreover, it appears that, the ingredients of criminal intimidation, as defined under Section 503, P.P.C., are also missing in the case, which must exist for application of Section 506 (ii), P.P.C. Section 503, P.P.C. defines criminal intimidation as under:--

"503. Criminal intimidation.--Whoever threatens another with an injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intention to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation".

Perusal of the above definition makes it clear that simple threats are not sufficient to constitute a criminal intimidation within the scope of this section unless it is caused that person to do an act, who was not legally bound to do or to omit to do any act, which that person was legally bound to do. Simple issuance of a threat does not constitute an offence under Section 506; P.P.C. There is no worth evidence attracting the provisions of Section 506 (ii) P.P.C, as defined under Section 503 P.P.C, as such, Section 506 (ii), P.P.C., is not applicable in the instant matter.

9. The learned trial Court, after proper appraisal of martial available on record, has rightly concluded that the allegations leveled against the accused person seems groundless. There is no probability of conviction of the accused person. I have found no illegality or irregularity in the order impugned, nor the same is suffering from any misreading or non-reading, warranting interference by this Court.

10. Resultantly, the instant appeal having no force, is **dismissed in limine.**

~~(GHULAM AZAM QAMBRANI)~~
JUDGE

*Rana. M. If **