

JUDGMENT SHEET  
**IN THE HIGH COURT OF SINDH  
CIRCUIT COURT HYDERABAD**

Criminal Acquittal Appeal No.S- 84 of 2010

For hearing of main case.

21.02.2020.

Mr. Ghulamullah Chang, Advocate for appellant.  
Mr. Muhammad Sachal Awan, Advocate for private respondents.  
Ms. Sana Memon, Assistant Prosecutor General Sindh.

**Abdul Maalik Gaddi, J:** - This criminal acquittal appeal has been filed by appellant / complainant Muhammad Moosa, challenging the judgment dated 20.02.2010, whereby the learned trial court after full dressed trial and after hearing the learned counsel for the parties, acquitted the respondents u/s 245(1) Cr.P.C. from the charge by extending benefit of doubt to them.

2. Precisely, relevant facts of the case as disclosed in the FIR are that on 25.11.2008 at about 1-00 a.m, the respondents / accused committed theft of 4 Tolas of Gold, 2 ½ Kilo of Silver Ornaments alongwith Iron Box of green colour of complainant.

3. After framing the charge against accused, the trial court in as much as recorded the evidence of five (05) witnesses including complainant and thereafter, statements of accused as required u/s 342 Cr.P.C. were recorded, wherein they denied the prosecution allegations and pleaded their innocence. However, neither they examined themselves on Oath nor produce any witness in their defence.

4. Thereafter, as stated above, after hearing the learned counsel for the parties, the learned trial court acquitted the respondents / accused through impugned judgment dated 20.02.2010 hence this acquittal appeal.

5. Learned counsel for the appellant mainly contended that the judgment passed by learned trial court is perverse and the reasons are artificial viz-a-viz the evidence on record; that the grounds on which the trial court proceeded to acquit the accused persons are not supported from the documents and evidence on record. He further submitted that accused have directly been charged and the discrepancies in the statements of witnesses are not so material on the basis of which accused could be acquitted. He further contended that learned trial court has based the findings of acquittal mainly on the basis of minor contradictions on non-vital points of the statements of prosecution witnesses and that the prosecution evidence has not been properly appreciated therefore, under these circumstances, he was of the view that this appeal may be allowed and the accused involved in this case may be given exemplary punishment.

6. On the other hand, learned counsel for the private respondents as well as learned A.P.G. appearing for the State have supported the impugned judgment by arguing that the impugned judgment passed by the learned trial court is perfect in law and on facts; that no direct evidence is available against the respondents to connect them in the commission of offence; that whole case of the prosecution is based upon surmises and conjunctures, therefore, no reliance could be safely placed for conviction of the respondents.

7. Arguments heard. Record perused.

8. After scanning the evidence of prosecution witnesses, I have come to the conclusion that prosecution has miserably failed to establish its case beyond any reasonable shadow of doubt. From perusal of the impugned judgment, it reveals that the trial court has recorded the findings of acquittal in favour of the respondents with sound and significant reasoning. Admittedly, the alleged incident took place on 25.11.2008 at about 1-00 am in dark night whereas FIR was lodged on 04.12.2018 after the delay of about 09 days and no plausible explanation in this regard has been furnished by the complainant. There are material contradictions, infirmities and inconsistencies in the evidence of prosecution witnesses who seems to be interested witnesses and relatives of the complainant hence their evidence is not confidence inspiring. No independent witness of the village has been

examined by prosecution. No recovery whatsoever has been affected from any of the accused / respondents. All these aspects have been highlighted by the learned Presiding Officer of the trial court in its judgment.

9. I have also perused the impugned judgment and come to the conclusion that the learned trial Court has dealt with all aspect of the matter quite comprehensively in the light of all relevant laws dealing with the matter and the appellant in his appeal is unable to point out that the impugned judgment by any means suffers from any illegality or miscomprehension or non-appreciation of evidence by way of documents and evidence available on record. I am also not satisfied with any of the grounds agitated by appellant in the memo of appeal for indulgence of this Court in the matter. Therefore, I find that the impugned judgment passed by trial Court is perfect in law and facts and needs no interference by this Court. This matter pertains to year 2008 and this appeal is pending since 2010. About 10 years have been passed and the respondents have faced agony of protracted trial. As observed above, the private respondents have been acquitted by the competent Court of law, therefore, under the law once an accused was acquitted by the competent Court of law after facing the agonies of the protracted trial, then he/they would earn the presumption of double innocence which could not be disturbed by the appellate Court lightly. Consequently, this criminal acquittal appeal being devoid of merits is hereby dismissed.

JUDGE

Tufail