

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Acquittal Appeal No. 122 of 2025

Date

Order with Signature of Judge

1. For orders on M.A No.2567/2025.
2. For orders on M.A No.2568/2025.
3. For orders on M.A No.2569/2025.
4. For hearing of Main Case.

18.02.2025

Mr. Salman Ali, Advocate for the Appellant.

x-x-x-x-x-x

1. Urgency granted.
2. Exemption granted subject to all just exceptions.
- 3-4. Through this Criminal Acquittal Appeal, the appellant, who is the complainant, has challenged the judgment dated 16.01.2025, passed by the learned 7th Judicial Magistrate, Karachi (South), in which respondent No. 2 was acquitted of the charges. The appellant, who is also the complainant in FIR No. 388 of 2023 under Sections 506-B, 337-A(i), and 504 PPC registered with P.S Boat Basin, Karachi, stated in the FIR that respondent No. 2 is a government driver, and on 27.05.2023 when he asked him why he had left his duty on 26.05.2023, on which, respondent No. 2 allegedly threw keys at him, used abusive language, caused fists and kicks, and issued threats of dire consequences. The incident was reported on 08.07.2023

Learned counsel for the appellant submits that the mashir of the arrest was not examined, and one Mehrab Ali, who was a witness, was also not examined by the learned trial Court. He further submits that respondent No. 2, being a subordinate, committed an act that is against the norms of dignity and even the prosecution established the case but the learned trial Court did not consider such aspect. He, therefore, prays that

matter may be remanded to the trial Court for concluding the same after examination of mashir of arrest and others.

After perusing the record available in the court file, it appears that the appellant, along with his witnesses, namely SIP Imran (the investigation officer) and PW-2 Inspector Liaquat Ali, were examined. The complainant himself deposed that he could not see the thing which the driver had in his hands and further deposed that it is correct to suggest that he had not filed a written complaint against the accused/respondent No.2 in the department as voluntarily he said that he made a verbal complaint. No plausible explanation was furnished for the delay in the registration of the FIR, as there was a delay of almost 11 days. Furthermore, the medical evidence is not available to support the appellant's contention. It is a well-settled principle of law that if a single circumstance creates doubt, the benefit of the same must go to the accused. Reliance can be placed upon the case of *Tariq Pervaiz v. The State* (1995 SCMR 1345). Further, the witness, namely Mehrab, is not an eyewitness as in his statement under Section 161 Cr.P.C., available at page-55, he stated that he is the driver of the appellant and it was informed that respondent No. 2 used abusive language and issued threats of dire consequences. As such, this witness is neither an eyewitness nor independent. Therefore, there is no necessity to remand the case to the trial Court only on the point that such witness/mashir be examined. The impugned judgment does not suffer from any illegality or infirmity which may warrant interference by this Court. Accordingly, the instant appeal against acquittal is dismissed, alongwith pending application(s), if any.

JUDGE

Zulfiqar/P.A