IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Acquittal Appeal No. 06 of 2024

Appellant	:	Complainant Gulista through Ms. Farhat Naz Qureshi, Advocate.
Respondent No.1 to 6	:	Nemo.
Respondent No.7	:	The State through Amna Khanam, Addl. P.G Sindh.
Date of hearing	:	13.10.2025.
Date of short order	:	13.10.2025.
Date of reasons	:	_____

J U D G M E N T

TASNEEM SULTANA, J:– Through instant criminal acquittal appeal, the appellant/complainant has assailed the judgment dated 29.11.2023, passed by the learned Additional Sessions Judge-III, Karachi South, whereby the respondent No.1 to 6 have been acquitted of the charge in Sessions Case No.2152 of 2023 Respondent: State v. Tasleem & others arisen out of Crime No.62 of 2023 registered at P.S Garden, Karachi South under Sections 354, 337-A(i) 337-F(i), F(v), F(vi), 34 PPC.

2. Briefly stated, the prosecution case as narrated in the FIR is that she resides at the address mentioned in the FIR and works as a housemaid,. She had earlier lodged an FIR against her nephew at P.S Gardeh, who, after being released, alongwith others, allegedly attacked her. On the day of incident, at about 3.00 p.m, when she went to purchase groceries, Huma called her and Abdul Wahab alongwith co-accused Sohail, Tasleem and others who allegedly attacked, kicked, punched, and hit her with sticks uttering that she had no right to lodge a case against them. Resultantly she received injuries on her head and body and was rescued by her sons Arif and Imran, after which she reported the matter to the police.

3. The accused/respondents No. 1 to 6 pleaded not guilty to the charge framed against him and claimed trial.

4. In order to substantiate the accusation, the prosecution examined five witnesses namely PW-1/Victim/injured Mst.Gulistan, PW-2 Muhamad Imran, PW-3 WMLO Dr.Mehak Irfan, PW-4/ASIP Nadeem Iqbal, PW-5/IO SIP Khalid Javed and PW-6/ I.O SIP Munir Hussain. who produced certain

documents in evidence, after which the learned State Counsel closed the prosecution side.

5. The statements of the accused were recorded under Section 342 Cr.P.C., wherein they denied the allegations and professed innocence. However, they neither examined themselves on oath nor produced any defense evidence.

6. Upon conclusion of trial and after hearing the learned counsel for both sides, the learned trial Court acquitted the accused/respondent vide judgment dated 29.11.2023, which has now been impugned through the present appeal.

7. Learned counsel for the appellant contended that the accused/ respondents have been specifically named in the FIR with a clear role attributed to them; the prosecution witnesses have fully supported the case of complainant during trial; and that the learned trial Court failed to properly appreciate the evidence available on record. It was further urged that there existed sufficient material connecting the accused with the commission of the offence, but the learned trial Court misread and ignored the same, thereby rendering the impugned judgment unsustainable in law.

8. Conversely, the learned Additional Prosecutor General supported the impugned judgment and submitted that the prosecution case was riddled with material contradictions, no recovery was effected, and that the findings of the trial Court were based on sound appreciation of evidence, warranting no interference by this Court.

9. I have heard learned counsel for the parties and perused the record with due care.

10. Perusal of record reveals that in the FIR complainant did not mention names of accused Tahir and Baber but later on she improved her case by implicating them in the evidence. Besides, she did not attribute any specific role of causing specific injury but in her evidence she has assigned specific injury to each accused whereby she has made dishonest improvements in the case. The version of complainant is not supported by medical evidence as in the medico legal certificate only history of assault on forehead and right knee is mentioned. WMLO also deposed in her evidence at the trial that injuries suffered by complainant on her forehead and right knee could be result of her falling on hard blunt substance. Besides, complainant herself has admitted that after getting treatment she returned home on the same

day which reflects no fatal injury was sustained by her. Complainant claimed that her clothes were blood stained as result of injuries suffered by her but the same were not produced in Court nor mentioned in the challan as case property. PW Imran only deposed that he saw a lady dragging out complainant from drain and put her in rikshaw but he did mention any injury sustained by her nor disclosed about presence of any other accused at the spot which also negate version of the complainant. On the contrary complainant disclosed in the FIR that his son Arif an PW Imran saved her from the accused which created serious doubt into the veracity of prosecution story. Complainant also deposed that PW Imran also received injury which is denied by PW Himself as no such fact is disclosed by him in his deposition nor there is any medical certificate on record showing injury suffered by PW Imran. It is astonishing to note that prior to registration of FIR in the case in hand, she had lodged FIR No.51 of 2023 at P.S Garden Karachi against accused (her nephew) Tahir @Tenda for theft of gold and cash and when said accused was released on bail in that case, same complainant has managed false story of instant FIR by implicating members of almost one and same family including said Tahir @Tenda, his mother Tasleem and sister Huma in order fix her personal grudge in the background of previous dispute. In such view of the matter false implication of accused in the instant case can not be ruled out.

11. The learned trial Court, in its well-reasoned judgment, meticulously discussed the entire prosecution evidence and assigned cogent grounds for recording the acquittal. The statements of material witnesses, including the complainant were inconsistent on several counts and complainant has made **dishonest improvements** in her case on several counts as discussed above. It appears that the prosecution has failed to establish its case or to produce any independent corroborative evidence to bring home guilt of accused beyond shadow of reasonable doubt.

12. As regards the dishonest improvements made by complainant is concerned, the Honourable Supreme Court of Pakistan in case of ***Muhammad Mansha v. The State (2018 SCMR-772)*****,** has held as under:-

> *"Once the Court comes to the conclusion that the eye-witnesses had made dishonest improvements in their statements then it is not safe to place reliance on their statements. It is also settled by this Court that whenever a witness made dishonest improvement in his version in order to bring his case in line with the medical evidence or in order to strengthen the prosecution case then his testimony is not worthy of credence. The witnesses in this case have also made dishonest improvement in order to bring the case in line with the medical evidence (as observed by the learned High Court), in that eventuality*

conviction was not sustainable on the testimony of the said witnesses. Reliance, in this behalf can be made upon the cases of Sardar Bibi and another v. Munir Ahmad and others (2017 SCMR 344), Amir Zaman v. Mahboob and others (1985 SCMR 685), Akhtar Ali and others v. The State (2008 SCMR 6), Khalid Javed and another v. The State (2003 SCMR 1419), Mohammad Shafique Ahmad v. The State (PLD 1981 SC 472), Syed Saeed Mohammad Shah and another v. The State (1993 SCMR 550) and Mohammad Saleem v. Mohammad Azam (2011 SCMR 474)."

12. Honourable Supreme Court in another case of ***Shamoon alias Shamma v. The State (1995 SCMR 1377),*** held as under:

"The prosecution must prove its case against the accused beyond reasonable doubts irrespective of any plea raised by the accused in his defence. Failure of prosecution to prove the case against accused, entitles him/them to an acquittal. The prosecution cannot fall back on the plea of an accused to prove its case. Before, the case is established against the accused by prosecution, the question of burden of proof on the accused to establish his plea in defence does not arise. " Reliance is also placed on case of ***Naveed Asghar and 2 others v. The State (PLD 2021 SC 600).***

12. On cumulative assessment of these contradictions and infirmities, the Trial Court concluded that the prosecution had failed to prove its case beyond reasonable doubt and, applying the settled principle that benefit of doubt must go to the accused, acquitted the respondent. The Hon'ble Supreme Court of Pakistan in the case of ***Muhammad Riaz versus Khurram Shehzad and another (2024 SCMR 51)*** has held as under:-

"10. The aforesaid set of circumstances creates misgivings and suspicions regarding the presence of the prosecution witnesses at the scene of the crime, and the discrepancies and defects in the investigation and the prosecution case pointed out by the learned High Court in the impugned judgment also colors the case in doubt and improbability. Therefore, the learned High Court rightly held that the prosecution badly failed to substantiate the case against the respondent No. 1, and the learned Trial Court was not justified in convicting him on the strength of untrustworthy or uncorroborated evidence which was full of material contradictions, especially contradictions in the ocular and medical evidence. It is a well-settled exposition of law that in an appeal against acquittal, the Court would not ordinarily interfere and would instead give due weight and consideration to the findings of the Court acquitting the accused which carries a double presumption of innocence, i.e. the initial presumption that an accused is innocent until found guilty, which is then fortified by a second presumption once the Court below confirms the assumption of innocence, which cannot be displaced lightly."

13. It is well settled by now that the scope of appeal against acquittal is very narrow and there exists a double presumption of innocence in favour of the accused, and that the Courts generally do not interfere with the impugned judgment

unless they find the reasoning in the same to be perverse, arbitrary, foolish, artificial, speculative or ridiculous, as was held by the Honourable Supreme Court in the case of ***State versus Abdul Khaliq and others (PLD 2011 SC 554*)**, wherein the Hon'ble Supreme Court has held as under:

> *"From the ratio of all the above pronouncements and those cited by the learned counsel for the parties, it can be deduced that the scope of interference in appeal against acquittal is most narrow and limited because in an acquittal the presumption of innocence is significantly added to the cardinal rule of criminal jurisprudence, that an accused shall be presumed to be innocent until proved guilty; in other words, the presumption of innocence is doubled. The courts shall be very slow in interfering with such an acquittal judgment, unless it is shown to be perverse, passed in gross violation of law, suffering from the errors of grave misreading or non-reading of the evidence, such judgments should not be lightly interfered and heavy burden lies on the prosecution to rebut the presumption of innocence which the accused has earned and attained on account of his acquittal. It has been categorically held in a plethora of judgments that interference in a judgment of acquittal is rare and the prosecution must show that there are glaring errors of law and fact committed by the Court in arriving at the decision, which would result into grave miscarriage of justice; the acquittal judgment is perfunctory or wholly artificial or a shocking conclusion has been drawn. Moreover, in number of dictums of this Court, it has been categorically laid down that such judgment should not be interjected until the findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous (Emphasis supplied). The Court of appeal should not interfere simply for the reason that on the re-appraisal of the evidence a different conclusion could possibly be arrived at, the factual conclusions should not be upset, except when palpably perverse, suffering from serious and material factual infirmities. It is averred in The State v. Muhammad Sharif (1995 SCMR 635) and Muhammad Ijaz Ahmad v. Raja Fahim Afzal and 2 others (1998 SCMR 1281) that the Supreme Court being the final forum would be chary and hesitant to interfere in the findings of the Courts below. It is, therefore, expedient and imperative that the above criteria and the guidelines should be followed in deciding these appeals."*

14. It is a cardinal principle of criminal jurisprudence that the prosecution must prove its case beyond reasonable doubt, and if a single reasonable doubt arises, it must be resolved in favour of the accused, not as a concession but as a right. Reliance is placed on **Tariq Pervaiz v. The State (1995 SCMR 1345), Muhammad Akram v. The State (2009 SCMR 230), and Muhammad Zafar and another v. Rustam and others (2017 SCMR 1639).**

15. In view of the foregoing discussion, I am of the considered view that the prosecution has failed to bring home the guilt of respondents/accused beyond the shadow of reasonable doubt. The learned trial Court has rightly extended the benefit of doubt and recorded acquittal through a well reasoned judgment which does not call for any interference by this Court. Accordingly, the impugned judgment dated 29.11.2023 passed by learned trial Court was maintained and instant Criminal Acquittal Appeal was dismissed by my short order dated 13.10.2025 and these are the reasons thereof.

JUDGE