

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
MIRPURKHAS.**

Appellant: Teekam Das son of Bhalji Rai @ Aneel Parkash,  
Through Mr. Afzal Karim Virk, Advocate.

The State: Through Mr. Ghulam Abbas Dalwani, D.P.G.

Date of Hearing: 06.08.2025

Date of decision: 06.08.2025

**J U D G M E N T**

**Amjad Ali Sahito, J.-** By this judgment, I intend to dispose of CrI. Acquittal Appeal No.S-44 of 2024, against the judgment dated 04.01.2024, passed by learned Civil Judge & Judicial Magistrate-I (MCTC), Sanghar, in Cr. Case No.106/2023 (Cr. Case No.217/2023 (Old)), whereby the respondents namely Moula Bux alias Molu, Nadir Bux alias Lado and Hyder alias Sikandar were acquitted u/s.245-(i), Cr.PC, which the appellant/complainant has impugned the Judgment before this Court against the above named respondents by way of filing instant Criminal Acquittal Appeal.

2. The facts of the case are that On 19.05.2023, the appellant/complainant was going to the city for personal work and, upon reaching near Hyder Nizamani, saw the accused persons: Nadir Bux alias Lado, son of Bachal Nizamani, armed with a pistol; Hyder alias Sikandar, son of Bachal Nizamani, armed with an iron rod; Khan Muhammad, armed with a knife; and Moula Bux alias Molu, son of Mevo Wassan. Accused Nadir Bux alias Lado used abusive language toward the appellant/complainant and stated that the appellant/complainant had dared not to give a motorcycle to him. He then raised the pistol at the complainant and instigated the other accused. Subsequently, accused Hyder alias Sikandar struck the appellant/complainant with the iron rod. The appellant/complainant tried to protect himself, but the iron rod hit him on his right hand. Accused Khan Muhammad attacked the appellant/complainant with a knife on his head, and accused Moula Bux struck the appellant/complainant with a stick/danda on his back, right arm, and

left knee. The appellant/complainant started crying, upon which his brothers, Pitamber and Bhanwar Lal, came to the scene. The accused then fled, using filthy language and threatening to kill the appellant/complainant. The brothers of the complainant then took him to the police station, received a police letter, and lodged the FIR. On completion of investigation, the police submitted report u/s 173 Cr.P.C before the competent Court of law.

3. Compliance under Section 241-A was made, and the requisite acknowledgment was received, as per Exh.1.

4. Formal charge was framed under Section 242 Cr.P.C. vide Exh.2, and the pleas of the accused persons were recorded vide Exh.2/A to 2/C, respectively.

5. At trial, the prosecution examined complainant Teekam Das at Exh.6, who produced FIR at Ex 6/A. PW.2 Pitamber at Exh.7. PW.3 Bhanwar Lal at Exh.8. PW.4. ASI Bisharat Ahmed at Exh.9, who produced entries at Exh.09/A & Exh.9/B, memo of place of incident at Exh.9/C, entry at Exh.9/D and bail order as Exh.9/E. PW.5 Dr. Syed Fazal Mehmood Shah at Exh.10, who produced police letter at Exh.10/A, radiology report as Exh.10/B, x-ray report at Exh.10/C and Final MLC at Exh.10/D. PW.6 Raju at Exh.11. After examination of material witnesses the prosecution closed its side.

6. The respondents in their statements recorded under section 342 Cr.PC denied the prosecution allegations leveled against them and prayed for justice. They however did not examine themselves on oath nor led any evidence in their defence.

7. Per learned counsel for the appellant/complainant sufficient record is available against the respondents, but the learned Magistrate had acquitted the respondents on flimsy grounds and he prayed that notice be issued to the respondents.

8. On the other hand learned D.P.G supported the impugned Judgment and states that there is conflict between the ocular evidence and submits that the instant criminal acquittal appeal may be dismissed and he further states that the FIR was registered with the delay of seven days.

9. I have heard learned counsel for the appellant/complainant and learned D.P.G for the State and have perused the record.

10. From the perusal of record, it appears that the incident has taken place on 19.05.2023 and the FIR was registered on 28.05.2023 with the delay of 09 days without any plausible explanation. The learned Magistrate passed the Judgment and acquitted the respondents/accused persons and it is appropriate to reproduce the para No.14, which is as under:

*14. Heard both side and perused the deposition of complainant and PWs it revealed that the stated that accused Nadir Bux alias Lado armed with pistol, Hyder alias Sikandar son of Bachal Nizama and accused Khan Muhammad armed with knife and accused Moula Bux alias Molu son of Mevo Wassa Nadir alias Lado, accused Hyder alias Sikandar cause iron rod to complainant, accused Khan Muhammad caused knife to complainant on his head, accused Moula Bux cause Danda blow to complainant on his back, right arm and left knee, in cross examination complainant stated that he has received 5/6 injuries incident were taken place at the house of Sikandar Ali and he does not know that it is mentioned in FIR accused Moula cause Danda on back side and cause injury to him on back which is create contradiction the evidence of complainant. In support of contradictory evidence I reliance case law 2022 MLD 14 Record shows that all the eyewitnesses/injured gave contradictory evidence and made improvement.*

11. It is an admitted fact, by the complainant and as alleged in the FIR, that a dispute arose between the complainant and the respondents two days prior to the alleged incident, pertaining to the non-delivery of a motorcycle. Furthermore, it is pertinent to note that the witnesses cited in support of the complainant's version are his close relatives. During the course of recording evidence, one of the prosecution witnesses, namely Raju, deposed that he had no knowledge of the incident. He further stated that the complainant had taken a copy of his CNIC as collateral in connection with a loan obtained from SAFCO. In view of this testimony, the learned Assistant District Public Prosecutor (ADPP) rightly declared him hostile. These facts collectively suggest that, due to the pre-existing dispute, the complainant has concocted a baseless and fabricated narrative in order to falsely implicate the respondents in a criminal case. Moreover, the learned

counsel for the appellant/complainant has failed to produce any substantive evidence to controvert the well-reasoned findings of the learned Magistrate recorded in the impugned judgment. The judgment has been passed with due application of judicial mind and on the basis of cogent and convincing reasons.

12. I am fully satisfied with appraisal of evidence done by the learned trial Court and I am of the view that while evaluating the evidence, the difference is to be maintained in appeal from conviction and acquittal appeal and in the latter case interference is to be made only when there is gross misreading of evidence resulting in miscarriage of justice.

13. The over-all discussion involved a conclusion that the learned counsel for the complainant has miserably failed to establish the guilt against the respondents beyond any shadow of doubt, in these circumstances, the learned trial Court has rightly evaluated the evidence while recording acquittal of the respondents. It is well settled principle of law that in criminal cases every accused is innocent unless proved guilty and upon acquittal by a Court of competent jurisdiction such presumption doubles. Very strong and cogent reasons are required to dislodge such presumption. The reasons given by the learned trial Court in its judgment have not been found by us to be arbitrary, fanciful or capricious, requiring any interference by this Court. Consequently, the instant appeal filed by the appellant/complainant merits no consideration, which is dismissed accordingly.

**J U D G E**

*\*Adnan Ashraf Nizamani\**