

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

Criminal Acquittal Appeal No.S-25 of 2024

Appellant/Complainant: Muhammad Moosa s/o Nawab Nohri (present in person).
Through Mr. Taj Muhammad Keerio, Advocate (called absent)
Mr. Allah Bux Mari holds brief on his behalf.

The State: Through Mr. Shahzado Saleem, Additional Prosecutor General, Sindh.

Respondent: Jumoon @ Muhammad Juman s/o Khuda Bux @ Kachro

Date of Hearing : 10.09.2025
Date of decision : 10.09.2025

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-25 of 2024, against the impugned judgment dated 18.08.2020, passed by learned Additional Sessions Judge-I/Model Criminal Trial Court, Umerkot in Sessions Case No.40/2019 (Re. The State Vs. Muhammad Juman @ Jumoon) whereby the respondent/accused namely Jumoon @ Muhammad Juman son of Khuda Bux @ Kachro by caste Nohri was acquitted u/s.265-H(i), Cr.PC, which the appellant/complainant has impugned the Judgment before this Court against the above named respondent by way of filing instant Criminal Acquittal Appeal.

2. The facts of the case are that an FIR was lodged by the complainant, Muhammad Moosa, stating that on 17-04-2020, his cousin, Mst. Zainab, was carrying a head pan filled with mud and was on her way home. At approximately 0900 hours, the accused, Jumoon, was riding a high-speed rickshaw in a negligent and rash manner he struck Mst. Zainab. As a result, Mst. Zainab sustained severe injuries. The complainant and other witnesses (PWs) immediately shifted her to the Government Hospital in Umerkot, but the doctors referred her to the Government Hospital in Mirpurkhas, where she succumbed to her injuries. Thereafter, the complainant and others brought the deceased's body back to Umerkot

Hospital, where the complainant left the body and went to the police station to lodge the FIR against the accused, Juman @ Jumoon, on the aforementioned grounds. Upon completion of the investigation, the police submitted a report under Section 173 Cr.P.C. before the competent court of law, showing the accused on court bail.

3. The necessary papers were supplied to the accused at Ex.1 and A formal charge against accused was framed at Exh.02, to which he pleaded not guilty and claimed trial, vide his plea recorded at Ex. 2-A.

4. At trial, the prosecution examined complainant Muhammad Moosa at Ex.03, who produced FIR at Ex.03/A and receipt at Ex.03/B. PW-2 Muhammad Talib at Ex.04. PW-3 I.O/Inspector Pir Nagji at Ex.05, who produced daily diary entries at Ex.05/A, letter addressed to WMO memo of site inspection, memo of cloths, memo of arrest and recovery, daily diary entries, Danishtnama and lash chakas form at Ex.05/H respectively. PW-04 Dr. Mehtab Parveen at Ex.06, who produced police letter and post mortem report at Ex.06/A and 06/B. PW-05 Tapedar Imdad Ali at Ex.07, who produced police letter and sketch of site at Ex.07/A and 07/B respectively. PW-06 Mukhtiarkar Muhammad Salam at Ex.09, who produced police letter and heirship certificate in respect of deceased as Ex.09/A & 09/B. PW-07 mashir Wali Muhammad at Ex.10, who produced memo of dead body at Ex.10/B.

5. The statement of respondent/accused under section 342 Cr.P.C was recorded, wherein he denied the prosecution allegations leveled against him and claimed to be innocent. He further stated that he was passing by the road, when he saw the deceased lady in injured condition, to whom he took in her rickshaw and brought her to Hospital, as she was already known to him being co-villager, but subsequently, complainant party implicated him in this case as they were inimical to him over marriage of his cousin with their closed relative Mst. Jameela. However neither he examined himself on oath as required U/S 340 (2) Cr.P.C nor lead defence evidence.

6. Mr. Allah Bux Mari holds brief on behalf of Mian Taj Muhammad Keerio advocate for the appellant/complainant and states that he is out of station and requests for date. His request is declined on the ground that instant matter presented in the year 2019 and for six years it is pending

before this Court. However the respondent/accused Jumoon @ Muhammad Juman was acquitted by the learned trial court vide judgment dated 18.08.2020 being aggrieved complainant has filed this complaint. From the memo of criminal acquittal appeal the learned counsel for the appellant has taken ground that the impugned judgment dated 18.08.2020, passed by the learned 1st Additional Sessions Judge in the case, is legally flawed, factually incorrect, and inequitable. The trial court failed to properly consider crucial ocular, medical, and eyewitness evidence, all of which strongly supported the prosecution's case and implicated the accused, respondent No.1, in the murder of the deceased. The court hastily acquitted the accused, granting him the benefit of doubt without due regard to the substantial evidence at hand. The appellant argues that this acquittal was based on vague, arbitrary reasoning, overlooking the testimonies of witnesses, medical findings, and the prosecution's strong case. Additionally, the respondent has continued to threaten the complainant post-acquittal, further highlighting the miscarriage of justice. The appellant seeks the reversal of the trial court's judgment, asserting that it was based on improper application of law and misreading of evidence.

7. On the other hand learned D.P.G has supported the impugned Judgment and states that there is material contradiction in ocular evidence of PWs and submit that the instant criminal acquittal appeal may be dismissed.

8. Heard and perused.

9. Upon perusal of the record, it is evident that the deceased met an unnatural death as a consequence of injuries sustained to vital organs, resulting in cardio-respiratory failure and shock. The pivotal issue for determination, however, is whether such death was occasioned by the rash and negligent driving of the rickshaw by the accused, Jumoon @ Muhammad Juman.

10. The medical evidence, including the post-mortem report, does not lend full corroboration to the ocular account of the prosecution witnesses regarding the nature of injuries and the circumstances leading to the death. While the witnesses have deposed that the deceased was dragged for a considerable distance by the rickshaw, the

post-mortem report does not reveal injuries consistent with such assertions, such as dragging marks or avulsion of nails. This material inconsistency casts serious doubt on the reliability of the ocular evidence.

11. Furthermore, the non-examination of material witness, namely the taxi driver, in whose taxi the injured was shifted to hospital and the absence of supporting medical records from Civil Hospital, Mirpurkhas, considerably weaken the prosecution's case. The doubtful presence of the eye witnesses at the scene, coupled with contradictions in their testimony regarding their arrival at the place of occurrence, further erodes the credibility of the prosecution's version.

12. In view of the foregoing discrepancies and infirmities in the evidence, it cannot be conclusively established that the death of the deceased was directly attributable to the alleged rash driving of the accused. Accordingly, the prosecution has failed to discharge its burden of proving the charge beyond reasonable doubt. Resultantly, the accused cannot be held criminally liable for the death of the deceased in the present case.

13. However, the appellant/complainant has failed provide any proof regarding falsify the observations given by the courts below in the impugned judgment and the learned trial court has passed the judgment with cogent reasons

14. 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.

15. The over-all discussion involved a conclusion that appellant/complainant has miserably failed to establish the guilt against the respondent/accused beyond any shadow of doubt, in these circumstances, the learned trial Court has rightly evaluated the evidence while recording acquittal of the respondent. 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 me 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