

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

PRESENT:

**MR. JUSTICE AMJAD ALI SAHITO.
MR. JUSTICE JAN ALI JUNEJO.**

Criminal Acquittal Appeal No.D-10 of 2024

Appellant/Complainant: Tajoo Bheel s/o Bheero
(Called absent).
Through Mr. Taj Muhammad Keerio,
Advocate (Called absent).
Mr. Aijaz Ali advocate holds brief on
his behalf.

Respondent No.1: Har Lal s/o Saloo Bheel.
Through Mr. Bhagchand Bheel,
Advocate (Called absent).

The State: Through Mr. Dhani Bakhsh Mari,
Assistant Prosecutor General Sindh.

Date of Hearing : 29.09.2025
Date of decision : 29.09.2025

J U D G M E N T

Amjad Ali Sahito, J.- By this judgment, we intend to dispose of Crl. Acquittal Appeal No.D-10 of 2024, against the impugned judgment dated 29.02.2020, passed by the learned Additional Sessions Judge-I/(MCTC), Sanghar, in Sessions Case No.88/2019 (Re. The State v. Har Lal) in crime No.163/2018 under section 302 PPC, registered at PS Sanghar, whereby the respondents namely Har Lal by caste Bheel 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. Brief facts of the prosecution case are that on 04.10.2018, at about 0200 hours, complainant Tajoo Bheel lodged FIR at Police Station Sanghar, stating that he, along with his brothers Photo and Rocho and their father Bheero, resides in village Manthar Wassan, Taluka Sanghar, and they used to cultivate the land of Zamindar Muhammad Ashraf Nizamani. Accused Har Lal son of Saloo Bheel, being their relative, also resided in the same village and used to cultivate land, but about one month earlier he had shifted to Tando Adam, though he occasionally visited the village to look after his crop. On the day of the incident, his father was sleeping on a cot in the landhi situated near their house, while he and his brother Rocho were feeding grass to the cattle. At about 1145 hours, accused Har Lal, armed with a hatchet, entered their house through an open hedge, and upon seeing him, the accused inflicted sharp-sided hatchet blows upon his sleeping father, striking his neck with the intention to commit his murder inside the landhi. The complainant and his brother raised hakkals asking him not to kill their father, but the accused continued causing hatchet blows on his head, neck, chest, and forehead. Thereafter, the accused fled away with the hatchet towards the cotton crop. Due to fear, they did not approach him. Subsequently, they saw that their father had sustained sharp-sided hatchet injuries on his neck, forehead, chest, head, and right wrist, from which blood was oozing, and he succumbed to his injuries at the spot. They shifted the dead body to Civil Hospital, Sanghar, where, after completion of necessary formalities, a letter was issued, and after post-mortem examination, the dead body was handed over to them. After the funeral ceremony, the complainant went to the police station and lodged report of the incident, alleging that accused Har Lal, on account of annoyance over his expulsion from the land, caused multiple hatchet blows to his father Bheero and committed his murder. Upon completion of investigation, the police submitted the report under Section 173, Cr.P.C. before the competent Court of law.

3. The necessary papers were supplied to the accused and the formal charge was framed against accused at Ex.2 and plea of accused was recorded, wherein he pleaded not guilty and claimed for trial.

4. At trial, the prosecution had examined eight witnesses, who have produced numerous documents. After examination of material witnesses the prosecution closed its side.

5. The statements of respondent/accused under section 342 Cr.P.C was recorded by the learned trial Court wherein he denied the prosecution allegations leveled against him and prayed for justice. However, he did not examine himself on oath nor led any evidence in his defence.

6. Mr. Aijaz Ali, Advocate, holds brief on behalf of Mr. Mian Taj Muhammad Keerio, learned counsel for the appellant, and submits that the latter is engaged before another Bench of this Court. It is pertinent to observe that on the last two consecutive dates of hearing, the same position had prevailed, which indicates that the appellant has shown no interest in pursuing the matter. Accordingly, the request for adjournment is declined.

7. We have carefully examined the record, which reveals that the present Criminal Acquittal Appeal was filed on 14.03.2020. However, on each occasion, adjournments have been sought by the learned counsel for the appellant on one pretext or another. On the last date of hearing i.e., 24.03.2025, Mr. Aijaz Ali, Advocate, appeared on behalf of Mr. Mian Taj Muhammad Keerio, submitting that he was engaged before the Circuit Court, Hyderabad. The record, therefore, demonstrates that the learned counsel appearing on behalf of the appellant has not shown any genuine interest in prosecuting this matter, which has remained pending for the last five years without any progress.

8. Upon a meticulous perusal of the statements of the prosecution witnesses as well as the contents of FIR (Ex.4/B), it transpires that the prosecution case is tainted with material contradictions and inherent inconsistencies. The admitted delay of 14 hours in lodging the FIR, coupled with the fact that the same was registered after deliberation and consultation, raises serious doubts about its authenticity. Furthermore, the ocular account furnished by the complainant and the purported eyewitnesses (PWs.1, 2 & 8) is inconsistent and contradictory on material particulars, including their presence at the scene of occurrence, the time and manner of their arrival, and the precise position of the deceased at the time of the incident. These glaring discrepancies materially affect the credibility of the witnesses and cast doubt on their actual presence at the place of occurrence. Consequently, the prosecution has failed to furnish a reliable, confidence-inspiring, and trustworthy ocular account. In such circumstances, the benefit of doubt must necessarily accrue to the accused.

9. In light of the above discussion, it is evident that the prosecution has failed to produce any cogent or reliable material that could safely connect the respondent/accused with the commission of the alleged offence. The contradictions in the prosecution evidence, the unexplained delay in the lodging of FIR, and the absence of medical corroboration create grave doubts regarding the veracity of the prosecution case. Consequently, the prosecution case against the accused is found to be doubtful in nature, entitling the accused to the benefit of doubt as a matter of right.

10. We are fully satisfied with appraisal of evidence done by the learned trial Court and we are 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.

11. The over-all discussion involved a conclusion that the 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 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

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Adnan Ashraf Nizamani

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