

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD.

Crl. Acq. Appeal No.S-162 of 2017.

Abdul ShakoorAppellant.

Versus.

Hameero and others.Respondents.

Mr. Muneer Ahmed Turk, Advocate for the appellant.

Ms. Safa Hisbani, APG.

Date of hearing and judgment: 11.06.2018.

JUDGMENT

IRSHAD ALI SHAH, J.-The appellant by way of instant criminal acquittal appeal has impugned judgment dated 29.07.2017 of learned Civil Judge / Judicial Magistrate Golarchi @ Badin, whereby the private respondents were acquitted of the charge.

2. Facts in brief necessary for disposal of the instant criminal acquittal appeal are that, the appellant filed a direct complaint before the learned trial Court alleging therein that the private respondents in furtherance of their common intention caused him fists, kicks and brick blows and then went away by issuing threats of dire consequences to him. The direct complaint so filed by the appellant was brought on record. The private respondents joined the trial. At trial, the private respondents did not plead guilty to the charge and appellant to prove the charge examined himself produced direct complaint, P.W. Lakhoo, P.W. Faiz Muhammad and Dr. Shamsuddin, he produced provisional and final medical certificates in respect of injuries sustained by the appellant and then appellant closed the side.

3. Learned trial Court, on evaluation of evidence so produced before it by the appellant and after hearing to all concerned, acquitted

the private respondents of the charge by way of judgment, which the appellant has impugned before this Court by way of instant criminal acquittal appeal, as stated above.

4. It is contended by learned counsel for the appellant that the learned trial Court has recorded acquittal of the private respondents without any justification. By contending so, he sought for admission of the appeal to its regular hearing.

5. Learned APG has supported the impugned judgment by contending that it is well reasoned.

6. I have considered the above arguments and perused the record.

7. In first instance, the appellant reported the incident to police, which was recorded in "Roznamcha", wherein he nominated Hameero to be his accused while his witnesses to be Sikandar Shah and Abdul Qadir Jamali. Subsequently, he filed the direct complaint with delay of eighteen months to the incident, wherein he nominated Hameero, Poonjo and Gopal to be his accused while witnesses to be Lakhoo and Faiz Muhammad. The exaggeration of the facts with delay in lodging of the direct complaint could not be lost sight of, as it is making the very case to be doubtful one. Be that as it may, Dr. Shamsuddin during course of his examination before the learned trial Court was fair enough to state that the injury sustained by the appellant could be caused on account of fall on the metallic road. If it is so, then involvement of the private respondents in such like case by the appellant was unfortunate. In these circumstances, learned trial Court was right to record acquittal of the private respondents by extending them benefit of doubt by way of impugned judgment, which is not calling for any interference by this

Court, as it is neither arbitrary nor has caused any miscarriage of justice.

8. In case of **State vs. Rasheed Ahmed**, which is reported at **NLR 2004 Cr. 286**, it was held by Hon'able Division Bench of Lahore High Court that the judgment of acquittal which is neither arbitrary nor causes miscarriage of justice would not warrant interference by High Court.

9. In case of **Muhammad Tassawur vs. Hafiz Zulqarnain and others**, which is reported at **PLD 2009 SC 53**, it was held by Hon'able Supreme Court of Pakistan that when an accused person is acquitted of the charge by the court of competent jurisdiction then he carried with him double presumption of innocence.

10. In view of above, the instant criminal acquittal appeal is dismissed in limine.

J U D G E

S