

ORDER SHEET
**IN THE HIGH COURT OF SINDH, CIRCUIT
COURT, HYDERABAD.**

Cr.Acq.Appeal No.S- 96 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection.
2. For orders on MA-2102/2020
3. For hearing of main case.

26.10.2020.

Appellant/complainant in person.
Ms. Sobia Bhatti, A.P.G for the State.

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Irshad Ali Shah, J; By way of instant acquittal appeal the appellant / complainant has impugned judgment dated 12.02.2020 passed by learned Assistant Sessions Judge-II, Shaheed Benazirabad, whereby the private respondents have been acquitted of the offence for which they were charged.

2. The allegation against the private respondents is that they after having been formed an unlawful assembly and in prosecution of their common object fired at appellant/complainant with intention to commit his murder and then went away by causing him Sarota and iron rod blows, misappropriating his Rs.2200/- threatening him of murder and making aerial firing to create harassment, for that the present case was registered.
3. At trial, the private respondents did not plead guilty to the charge and prosecution to prove it examined appellant / complainant and his witnesses and then closed the side.

4. The private respondents in their statements recorded u/s 342 Cr.P.C denied the prosecution allegation by pleading innocence, they did not examine anyone in their defence or themselves on oath to disprove the allegation of prosecution against them.

5. On evaluation of evidence so produced by the prosecution learned trial Court acquitted the private respondents by way of impugned judgment.

6. It is contended by the appellant / complainant that learned trial Court has recorded acquittal of the private respondents on the basis of conjecture and surmises. By contending so, he sought for adequate action against the private respondents.

7. Learned A.P.G by supporting the impugned judgment has sought for dismissal of the instant acquittal appeal.

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

9. The FIR of the incident has been lodged with delay of about one month; such delay could not be lost sight of. The firing made upon the appellant/complainant with intention to commit his murder proved to be ineffective, which appears to be surprising. Parties are already disputed over landed property. In these circumstances, learned trial Court was right to record acquittal of the private respondents by extending them benefit of doubt, such acquittal is not found to be cursory or arbitrary to be interfered with by this Court.

10. In case of ***State and others vs. Abdul Khaliq and others (PLD 2011 SC-554)***, it has been held by the Hon'ble Apex Court 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. 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. Judgment of acquittal should not be interjected until the findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous. The Court of appeal should not interfere simply for the reason that on the reappraisal 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”.

11. Consequent upon the above discussion, the instant Acquittal Appeal is dismissed.

JUDGE

Ahmed/Pa