

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

Criminal Acquittal Appeal No.S-235 of 2020

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objections.
2. For hearing of main case.

**12.01.2021**

Mr. Rashid Raees, Advocate for the appellant.  
Mr. Shahzado Saleem Nahiyoan, D.P.G for State.

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**IRSHAD ALI SHAH, J.** The facts in brief necessary for disposal of instant acquittal appeal are that the appellant lodged an FIR against the private respondents alleging therein that they with rest of the culprits after having formed an unlawful assembly and in prosecution of their common object have not only maltreated but threatened him of murder.

2. On investigation, the private respondents were challaned by the police. At trial, the private respondents did not plead guilty to the charge and prosecution to prove it examined the appellant / complainant and his witnesses and then closed the side.

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

4. On evaluation of evidence, so produced by the prosecution, learned trial Magistrate acquitted the private respondents of the

offence for which they were charged by way of judgment dated 17.11.2020, which is impugned by the appellant / complainant before this Court by preferring the instant acquittal appeal.

5. It is contended by learned counsel for the appellant / complainant that learned trial Court has recorded the acquittal of the private respondents without lawful justification and on the basis of improper assessment of evidence. By contending so, he sought for adequate action against the private respondents.

6. Learned D.P.G for the State by supporting the impugned judgment has sought for dismissal of the instant acquittal appeal.

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

8. The FIR of the incident has been lodged with delay of about fifteen days that too after having a recourse u/s 22-A & B Cr.P.C. Such delay could not be overlooked. It is reflecting deliberation and consultation. The parties are said to be disputed over connection of water supply. The medical evidence is in conflict with the ocular evidence. In these circumstances, learned trial Magistrate was right to record acquittal of the private respondents by extending them benefit of doubt.

9. 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”.*

10. Nothing has been brought on record, which may suggest that the private respondents have been acquitted by trial Court in arbitrary or cursory manner, which may justify this Court to make interfere with their acquittal.

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

JUDGE

Ahmed/Pa