

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

Cr.Acq.Appeal No.S- 97 of 2018

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For hearing of main case.
2. For hearing of MA-4122/18

08.11.2019.

Mr. Roshan Ali Azeem Mallah, advocate for appellant.
Ms. Rameshan Oad, A.P.G.

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The appellant / complainant by way of instant acquittal appeal has impugned judgment dated 02.05.2018 passed by learned Ist Civil Judge & Judicial Magistrate, Badin, whereby the private respondents have been acquitted of the offence for which they were charged.

2. It is alleged that the private respondents after keeping the appellant / complainant under wrongful restraint robbed him of his belonging by way of maltreatment for that they were booked and reported upon.

3. At trial, the appellant 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.

5. On evaluation of evidence so produced by the prosecution learned trial Court acquitted the private respondents, such acquittal is impugned by the appellant / complainant before this Court by way of instant Acquittal Appeal as stated above.

6. It is contended by learned counsel for the appellant / complainant that the learned trial Court has recorded acquittal of the private respondents without lawful justification, on the basis of improper assessment of the evidence. By contending so, he sought for admission of the instant Acquittal Appeal to its regular hearing.

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

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

9. The FIR of the incident has been lodged by the appellant/complainant with delay of about 18 days that too after having recourse u/s 22-A and B Cr.P.C, such delay could not be ignored. The parties as per PW Allahdino were disputed on matrimonial affair. There was no independent witness to the incident. In these circumstances, learned trial Court was right to record acquittal of private respondents by extending them benefit of doubt.

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. 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 the acquittal of the private respondents.

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

JUDGE

Ahmed/Pa