

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

Cr.Acq.Appeal No.S- 229 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on MA-10235/19
2. For orders on office objection
3. For orders on MA-10236/19
4. For hearing of main case
5. For orders on MA-10237/19

02.12.2019.

Mr. Allah Bux Baloch, advocate for appellant/
complainant.

Ms. Safa Hisbani, A.P.G for the State.

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1. Urgency granted.
 2. Overruled.
 3. Granted subject to all just exceptions.
- 4&5. It is alleged that the private respondents by committing trespass into house of appellant / complainant committed theft of his belonging as is detailed in FIR for that they were reported upon.

After due trial, the private respondents were acquitted by learned trial Magistrate vide judgment dated 26.10.2019 which is impugned by the appellant / complainant before this Court by way of instant acquittal appeal.

It is contended by learned counsel for the appellant / complainant that learned trial Magistrate has recorded the acquittal of the private respondents without lawful justification

ignoring the recovery. By contending so, he sought for issuance of notice against the private respondents.

I have considered the above arguments and perused the record.

The FIR of the incident has been lodged with un-explained delay of about six days. PW Nasim has not supported the case of prosecution. In these circumstances, learned trial Magistrate was right to record acquittal of the private respondents by extending them benefit of doubt.

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”.

Nothing has been brought on record, which may suggest that the 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.

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

JUDGE