

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**  
**Criminal Acq. Appeal No.S-235 of 2019**

1. For orders on MA-10311/19
2. For orders on office objection
3. For orders on MA-10312/19
4. For orders on MA-10313/19
5. For hearing of main case

**Appellant/Complainant:** Ghulam Nabi son of Suhailo Dall.  
Through Syed Shahzad Ali Shah  
advocate.

**Respondents:** Through Mr. Shahzad Saleem  
Nahiyoan, D.P.G

**Date of hearing:** 09.12.2019

**Date of decision:** 09.12.2019

**J U D G M E N T**

**IRSHAD ALI SHAH, J.** The appellant / complainant by way of instant acquittal appeal has impugned judgment dated 26.10.2019 passed by learned Civil Judge & Judicial Magistrate-I Chambar, whereby the private respondents have been acquitted of the offence for which they were charged.

2. It is the case of prosecution that the private respondents obtained from the appellant / complainant rupees fifteen lac for getting him appointed as a Sub-Registrar in Revenue Department and then issued a cheque in his favour for rupees fifteen lac as a guarantee to be encashed if they failed to get the appellant / complainant appointed as per promise, which they failed, consequently, the appellant / complainant went at the concerned Bank and produced the said cheque for encashment, it was bounced and thereafter, the appellant / complainant lodged the FIR of the incident. After due investigation the

private respondents were challaned by the police to face trial for the above said offence.

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 against them by pleading innocence, they did not examine themselves on oath or anyone in their defence.

5. On conclusion of the trial, learned trial Court acquitted the private respondents of the offence vide its judgment dated 26.10.2019, which 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 prosecution was able to prove its case against the private respondents through cogent evidence, beyond shadow of doubt, which has not been appraised properly by learned trial Court while recording acquittal of the private respondents. By contending so, he sought for issuance of notice against the private respondents and State for further proceedings of the instant acquittal appeal.

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

9. Admittedly, the recruitment in public sector is to be made on merit after wide publicity in prominent newspapers. If, the appellant / complainant was going to get him appointed in public sector by offering bribe, other than merit, then he has to blame himself first. Nothing has

been brought on record, which may suggest that the private respondents were having an authority to make appointment in public sector. In that situation, the making payment to the private respondents by the appellant / complainant allegedly to get him appointed as a Sub-Registrar in the Revenue department is not appealing to prudent mind. Be that as it may, the FIR of the incident has been lodged with un-plausible delay of six months; such delay could not be overlooked. 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 their acquittal.

12. Consequent upon above discussion, the instant Acquittal Appeal is dismissed along with listed applications.

JUDGE