

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

Criminal Acquittal Appeal No.S-264 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on M.A. No.12103/2021.
	2. For orders on office objections.
	3. For orders on M.A. No.12104/2021.
	4. For orders on M.A. No.12105/2021.
	5. For hearing of main case.
	6. For orders on M.A. No.12106/2021.

25.04.2022

Mr. Willayat Ali Khan Magsi, Advocate for the appellant/complainant.  
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The facts in brief necessary for disposal of instant criminal acquittal appeal are that the cheques were issued by the private respondent in favour of appellant dishonestly those were bounced when were presented for encashment before the concerned Bank, consequently a case was registered by the appellant with the police and after due trial the private respondent was convicted under section 489-(f) P.P.C and sentenced to undergo imprisonment for two years with fine of Rs.10,000/- by learned Model Trial Magistrate-II Judicial Magistrate-I Hyderabad vide Judgment dated 28.01.2021, which was impugned by the private respondent by filing an appeal, it was accepted by learned II-Additional Sessions Judge, Hyderabad whereby he was acquitted of the above said offence vide judgment dated 04.10.2021, which is impugned by the appellant before this Court by preferring the instant criminal acquittal appeal.

It is contended by learned counsel for the appellant that learned Appellate Court has recorded the acquittal of the private respondent on the basis of improper assessment of evidence; therefore, such acquittal is liable to be set-aside.

Heard arguments and perused the record.

The F.I.R of the incident has been lodged with delay of more than two months that too after having a recourse u/s: 22-A&B Cr.P.C; such delay having not been explained plausibly could not be overlooked. The parties being partner in business apparently were disputed over settlement of accounts. In these circumstances, learned Appellate Court was right to record acquittal of the private respondent by way of impugned judgment and such acquittal is not found to be arbitrary or cursory to be interfered with by this Court.

In case of *State and others vs. Abdul Khaliq and others* (PLD 2011 SC-554), it has been observed 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”.*

In view of the facts and reasons discussed above, instant criminal acquittal appeal is dismissed in *limine* along-with listed applications.

**JUDGE**