

**IN THE HIGH COURT OF SINDH AT KARACHI***Present: Ahmed Ali M. Shaikh, CJ and Omar Sial, J*

Crl. Acq. Appeal No. 591 of 2019

Nasir Khan v. Bakht Zaman &amp; others

Mr. Muhammad Aslam Bhutta, Advocate for appellant.

Mr. Abrar Ali Khichi, Addl.P.G.

**ORDER**

Omar Sial, J: Nasir Khan has impugned a judgment dated 24-8-2019 passed by the learned 8<sup>th</sup> Additional Sessions Judge, Karachi West. In terms of the said judgment Bakht Zaman (respondent no. 1) was acquitted of a charge under sections 302, 114 and 34 P.P.C.

2. A background to the case is that the Nasir Khan lodged F.I.R. No. 116 of 2012 under sections 302, 114 and 34 P.P.C. at the SITE-A police station on 11.3.2012. He recorded that the previous day at night he heard noise and commotion from outside. When he went out to investigate he was told by his cousins that Nasir's brother was lying injured and that he had been shot at by Noman Zaman, Adnan Zaman, Bakht Zaman and Gul Zaman. The brother (Shad Mohammad) died subsequently.

3. The learned counsel for the appellant submitted that the learned trial court had erred and not taken into account the fact that there were two eye witnesses of the incident. He therefore concluded that the impugned judgment was bad due to non-reading of evidence.

4. We have heard the learned counsel for the appellant and the learned Addl. P.G. Our observations are as follows.

5. According to the F.I.R. there were two eye witnesses to the incident, namely, Amjad Sohail and Irfan Hanif. The record reveals that Amjad Sohail was not examined as a witness whereas testimony of Irfan Hanif was not believed by the learned trial judge. Contrary to the learned counsel's assertion, the learned trial judge has not only addressed the testimony of the eye witness but has also given cogent reasons for not believing the same. Further, in the impugned judgment the learned trial court has also stated other reasons for concluding that the prosecution had been unable to prove its case beyond reasonable doubt.

6. In view of the above, the learned counsel has not been able to point out any non-reading or mis-reading of evidence or any jurisdictional issues with the impugned judgment. Further, he has been unable to demonstrate that the impugned judgment is capricious, arbitrary or capricious. A double presumption of innocence also works in favour of the respondent no. 1.

7. In view of the above, the appeal stands dismissed.

JUDGE

CHIEF JUSTICE