

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

Criminal Acq. Appeal No. 241 of 2020
Raj Muhammad Khan v. Muhammad Gora Khan & others

Mr. Saleem Nawaz Waziri, Advocate for appellant.
Mr. Abrar Ali Khichi, DPG.

Date of hearing : 2nd February, 2021

Date of order : 2nd February, 2021

ORDER

Omar Sial, J: Raj Muhammad Khan has impugned a judgment dated 21-2-2020 passed by the learned 1st Additional Sessions Judge, Karachi Central. In terms of the said judgment the learned trial court had acquitted Muhammad Gora Khan, Muhammad Shahid, Shagufta Bibi @ Shaista and Zar Nabi (all 4 are respondents herein) in a case arising out of F.I.R. No. 122 of 2019 registered under sections 302, 109 and 34 P.P.C. at the FBIA police station in Karachi.

2. A brief background to the case is that Raj Muhammad Khan lodged the aforementioned F.I.R. narrating therein that his brother Ajwali was murdered by unknown men while Ajwali was on his way to work on his motorcycle. After a full dress trial, the accused (respondents herein) were acquitted.

3. At the outset we asked the learned counsel to point out to us the defect in the impugned judgment which he was aggrieved with. Learned counsel submitted that his grievance was that the learned trial court had acquitted the respondents even though there was evidence in the form of CCTV footage against them.

4. We have gone through the impugned judgment and have noted that the learned trial court has comprehensively addressed the aspect of the CCTV footage. Learned counsel has not denied that the investigating officer of the case testified at trial that he had seized the footage without making anybody any relevant person a witness to the seizure; that the PTV as well as the F.I.A. had declined to identify the accused through the footage; the photo grabs from the footage reveal that 2 persons were seen on a motorcycle – one who was wearing

a helmet and thus could not be recognized whereas the facial features of the other could not be identified in the quality of the footage.

5. In view of the above observations as well as the fact that none of the guidelines stipulated by the Honorable Supreme Court in **Ishtiaque Ahmed Mirza vs The Federation of Pakistan (PLD 2019 SC 675)** for audio and video recordings to be admitted as evidence were complied with, we are of the view that no cogent ground has been raised by the learned counsel which would merit interference with the judgment of the learned trial court. The learned trial court has given a comprehensive judgment and no mis-reading, non-reading or jurisdictional issues have been raised by the learned counsel. Further, the judgment is not capricious, arbitrary or perverse. Needless to say a double presumption of innocence also works in favour of the respondents.

6. The appeal stands dismissed.

JUDGE

CHIEF JUSTICE