IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Acquittal Appeal No. S- 90 of 2022

- 1. For Orders on office objection.
- 2. For Orders on MA No. 3225/2023.
- 3. For hearing of main case.

ORDER.

18-10-2023.

Mr. Muhammad Aslam Gadani, advocate for the appellant.

- 1. Over ruled.
- 2. It is contended by learned counsel for the appellant that learned trial Magistrate has recorded the acquittal of the private respondents without providing fair opportunity to the appellant to produce his evidence. By contending so he sought for setting aside of impugned judgment of acquittal with direction to learned trial Magistrate to make fresh disposal of the case after examination of all the witnesses of the appellant, which is opposed by learned APG for the State by supporting the impugned judgment.
- 3. Heard arguments, perused the record.
- 4. The appellant by making an statement closed his side stating therein that he could not produce his remaining witnesses being absconders, thus the appellant could not challenge the impugned judgment of acquittal under the pretext that he has not been provided fair opportunity to examine his witnesses. No illegality is noticed, which may justify this Court to make interference with the impugned judgment of acquittal.
- 5. In case of *State and others vs. Abdul Khaliq and others* (PLD 2011 SC-554), it has been held by the 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".

6. In view of the facts and reasons discussed above, instant criminal acquittal appeal fails and it is dismissed accordingly.

JUDGE