

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Acquittal Appeal No. S- 138 of 2022

(Abdul Ghaffar Soomro Vs. Abdul Qadir Mahar)

1. Orders on office objection.
2. For Orders on MA No. 5117/2022.
3. For hearing of main case.

Appellant Abdul Ghaffar in person.

ORDER.**26-10-2023.**

1. Not complied with.
2. Deferred.
3. On conclusion of trial, the private respondent were acquitted of the charge u/s 506 (2) PPC by learned IIIrd Civil Judge & Judicial Magistrate (MTMC), Sukkur; vide judgment dated 17-09-2022, which is impugned by the appellant before this Court by preferring the instant Acquittal Appeal.
2. It is contended by the appellant that learned trial Magistrate has recorded has recorded acquittal of the private respondents without considering the evidence brought on record; therefore, their acquittal is to be examined by this Court.
3. Heard arguments and perused the record.
4. The FIR of the incident has been lodged with delay of about one day; that too after consultation with the Nekmards and there appears to be dispute between the parties over sale and purchase of the tractor. In these circumstances, learned trial Magistrate has rightly acquitted the private respondents of the charge by extending them benefit of doubt by way of impugned judgment, which is not found arbitrary or cursory to be interfered with by this Court by way of instant Crl. Acquittal Appeal.
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 in limine.

JUDGE

Nasim/P.A