IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Acquittal Appeal No. S- 174 of 2022

Appellant/complainant:	Noor Hussain son of Azizullah Tunio in person.
The State	Through Mr. Shafi Muhammad Mahar, Deputy Prosecutor General
Private Respondents:	Not on notice.
Date of hearing :	27-10-**2023**.
Date of decision :	27-10-2023.

JUDGMENT

IRSHAD ALI SHAH, J.-. It is alleged by the appellant that the private respondents in furtherance of their common intention caused him hatchet and lathi blows. On the basis of such allegation, he lodged FIR of the incident against them, they were challaned accordingly. On conclusion of trial, Muhammad Moosa was acquitted while Nabi Bux and Amanat Ali were convicted to various terms of imprisonment by learned 1st Judicial Magistrate (MTMC) Kandiaro vide judgment dated 21-04-2021, which was impugned by them by preferring an appeal and by the appellant by preferring a Revision Application; those were disposed by learned 1st Additional Sessions Judge (MCTC) Naushahro Feroze vide Order dated 24-11-2022 by recording acquittal of the convicts and dismissing the Revision Application impliedly, which is impugned by the appellant before this Court by preferring the instant Crl. Acquittal Appeal.

2.   It is contended by the appellant in person that the both the Courts below have recorded acquittal of the private respondents without lawful justification; therefore their acquittal is to be examined by this Court, which is opposed by learned DPG for the State by supporting the impugned judgment.

3.   Heard arguments and perused the record.

4.   The FIR of the incident has been lodged with delay of about 23 days; such delay having not been explained plausibly could not be over looked; it is reflecting consultation and deliberation. There is general allegation of incident. PW Iqrar has not supported the case of the prosecution. PW Abrar did not implicate Muhammad Moosa in commission of incident. The parties are appearing to be disputed over landed property. In these circumstances, learned trial and appellate Courts have rightly recorded acquittal of the private respondents' one after other by extending them benefit of doubt, 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 limine.

J U D G E

Nasim/P.A