

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
Criminal Acquittal Appeal No. S- 102 of 2023

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Appellant/complainant: Bhoor Pitafi son of Muhammad Sulleman through Mr. Amjad Ali Gabole advocate.

The State Through Mr. Zulfiqar Ali Jatoi, Additional Prosecutor General

Private Respondents: Not on notice.

Date of hearing : 30-10-2023.  
Date of decision : 30-10-2023.

**JUDGMENT**

**IRSHAD ALI SHAH, J.-** It is alleged by the appellant that the private respondents in furtherance of their common intention maltreated PW Akram. On the basis of such allegation, he lodged FIR of the incident against them, they were challaned accordingly. On conclusion of trial, they were acquitted by learned IInd Judicial Magistrate (MTMC) Ghotki vide judgment dated 24-08-2023, which the appellant has impugned before this Court by preferring the instant CrI. Acquittal Appeal.

2. It is contended by the appellant in person that learned trial Magistrate has recorded acquittal of the private respondents without lawful justification; therefore their acquittal is to be examined by this Court, which is opposed by learned APG 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 06 days; such delay having not been explained plausibly could not be over looked; it is reflecting consultation and deliberation. The parties are appearing to be disputed over hedge. As per medical officer PW/injured Akram was discharged on the same date. As per PW Akram, he remained in hospital for the about 3/4 days, such inconsistency could not be lost sight of. PW Pir Bux has not been examined by the prosecution; his non-examination could not be over

looked. 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 CrI. 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 accordingly.

JUDGE