

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
Criminal Acquittal Appeal No.S- 149 of 2022

---

Appellant/complainant: Mst. Hakeema wife of Abdul Ghafoor  
by caste Mangrio R/O village Bhirrio,  
Taluka Rohri, District Sukkur **through**  
Mr. Abdul Haseeb Khuhro advocate.

Private respondent : Not on notice.

Date of hearing : 16-11-2023.  
Date of decision : 16-11-2023.

## **JUDGMENT**

**IRSHAD ALI SHAH, J.-.** The facts in brief necessary for disposal of instant CrI. Acquittal Appeal are that the appellant alleging her dispossession from subject land, filed a complaint for prosecution of the private respondents under the provisions of Illegal Dispossession Act, 2005, it was brought on record; the private respondents joined the trial and on conclusion whereof, were acquitted of the charge by learned Vth Additional Sessions Judge Sukkur vide judgment dated 05-10-2022, which the appellant has impugned before this Court without obtaining special leave to appeal being mandatory in terms of sub-section (2) to section 417 Cr.P.C; such omission on her part has rendered the instant CrI. Acquittal Appeal to be incompetent. Besides this, no illegality is noticed in impugned judgment which may justify this Court to make interference with the same.

2. 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”.*

3. In view of above, instant criminal acquittal appeal fails and is dismissed in limine.

J U D G E

Nasim/P.A