

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
Criminal Acquittal Appeal No.S-46 of 2022

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Appellant/complainant	Muhammad Shafiq s/o Abdul Rasheed Khilji <b>Through</b> Mr. Muhammad Rehan Khan Durrani, advocate.
Private respondent	Munir Khan son of Abbas Khan Pathan <b>through</b> Mr. Shabbir Ali Bozdar, advocate.
The State	<b>Through</b> Mr. Aftab Ahmed Shar, Additional Prosecutor General.
Date of hearing	: 29-11-2023.
Date of decision	: 29-11-2023.

## **JUDGMENT**

**IRSHAD ALI SHAH, J.-** The appellant by preferring the instant Crl. Acquittal Appeal has impugned judgment dated 14-03-2022 passed by learned IInd Civil Judge & Judicial Magistrate, Sukkur, whereby the private respondent was acquitted for offence punishable u/s 489-F and 420 PPC for allegedly issuing a cheque in favour of the appellant dishonestly, which was bounced, when was presented before the Bank for encashment.

2. Heard arguments and perused the record.

3. The FIR of the incident has been lodged with delay of more than two years; such delay could not be over looked. The subject cheque was issued as guarantee. The parties are disputed over sale and purchase of the flat. The civil litigation between the parties is going on. In these circumstances, learned trial Magistrate was right to record acquittal of the private respondents by way of impugned judgment, which is not found to be arbitrarily or cursory to be interfere with by this Court.

4. 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”.*

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

JUDGE

Nasim/P.A