

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
Criminal Acquittal Appeal No.S-182 of 2022

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Appellant/complainant	Ghulam Nabi son of Illahi Bux bycaste Chohan <b>Through</b> Mr. Muhammad Nasir Malik, advocate.
Private respondents	Saindad and 09 others <b>through</b> M/s Prem Kumar @ Parmanand and Ayaz Ahmed Noonari advocates.
The State	<b>Through</b> Mr. Shafi Muhammad Mahar Deputy Prosecutor General.
Date of hearing	: 04-12-2023.
Date of decision	: 04-12-2023.

## **JUDGMENT**

**IRSHAD ALI SHAH, J.-.** The appellant by preferring the instant CrI. Acquittal Appeal has impugned judgment dated 25-11-2022 passed by learned Ist Assistant Sessions Judge, Sukkur, whereby he has acquitted the private respondents of the offence, for which they were charged.

2. It is contended by learned counsel for the appellant learned trial Court has recorded acquittal of the private respondents without appreciating the evidence properly; therefore, their acquittal being illegal is to be examined by this Court.

3. Learned APG for the State and learned counsel for the private respondents by supporting the impugned judgment have sought for dismissal of instant acquittal appeal.

4. Heard arguments and perused the record.

5. The FIR of the incident has been lodged with delay of about 05 hours; such delay having not been explained plausibly could not be overlooked, it is reflecting deliberation and consultation. It was the case of ineffective and aerial firing. The parties were disputed over plot. In these circumstances, learned trial Court 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.

6. 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”.*

7. In view of above, instant criminal acquittal appeal fails and is dismissed accordingly.

J U D G E

