

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Acquittal Appeal No.S-72 of 2022

Appellant/complainant	Irshad Ahmed son of Muhammad Hayat Soomro Through Mr. Alam Sher Bozdar, advocate.
Private respondents	Muhammad Nawaz Soomro and 9 others through Mr. Mushtaque Ahmed Abbasi advocate.
The State	Through Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.
Date of hearing	: 15-12-2023.
Date of decision	: 15-12-2023.

JUDGMENT

IRSHAD ALI SHAH, J.- The facts in brief necessary for disposal of instant CrI. Acquittal Appeal are that the private respondents on having been involved in present case, were convicted and sentenced to various terms of imprisonment by learned trial Magistrate, which was set aside by learned appellate Court on acceptance of their appeal in shape of their acquittal; such acquittal is impugned by the appellant before this Court by preferring the instant CrI. Acquittal Appeal.

2. It is contended by learned counsel for the appellant learned appellate Court has recorded acquittal of the private respondents without lawful justification, which is to be set aside by this Court.

3. Learned DPG for the State and learned counsel for the private respondents by supporting the impugned judgment have sought for dismissal of instant acquittal appeal by contending that the judgment of the appellate Court is well reasoned.

4. Heard arguments and perused the record.

5. The FIR of the incident has been lodged with delay of about 09 days; such delay having not been explained plausibly could not be overlooked, it is reflecting deliberation and consultation. There is counter version of the incident. There is general allegation of the incident excepting role of causing hatchet blow to the complainant on his left ear

allegedly by respondent Muhammad Nawaz. Surprisingly on investigation he was found innocent by the police and was let off by placing his name in column No.II of the charge sheet. The opinion of the police under the circumstances could not be over looked. The parties are already disputed over landed property. In these circumstances, learned appellate Court was right to record acquittal of the private respondents by way of impugned judgment, which is not found arbitrarily or cursory to be interfered 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.

JUDGE