

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Acquittal Appeal. No. S-04 of 2024

Date of hearing: 17.01.2024

Date of judgment: 17.01.2024

Syed Ali Murtaza Shah, Advocate for appellant
Syed Sardar Ali Shah, Addl. P.G.

J U D G M E N T

ZULFIQAR ALI SANGI, J; Through captioned acquittal appeal the appellant/complainant Nadeem Khan has impugned the judgment dated 08.12.2023, passed by the Additional Sessions Judge-III Naushehro Feroz, in Sessions case No. 421/2002 (*Re-Noor Muhammad Solangi and others*) culminating from FIR No. 44/2022 for the offence punishable u/s: 436, 337-H(ii), 427, 148 & 149 PPC, whereby the respondents Noor Muhammad, Gul Hassan, Rashid Ali, Abdul Hameed, Iqbal Khan and Ghulam Mustafa, were acquitted by extending them benefit of the doubt. Being aggrieved by the aforesaid judgment of acquittal, appellant has filed captioned Criminal Acquittal Appeal.

2. The details and particulars of the F.I.R. are already available in the memo of Acquittal Appeal and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. After usual investigation, the case was challaned. By completing legal formalities, the trial Court framed the charge to which accused pleaded not guilty and claimed trial.

4. The prosecution in order to prove the case, examined (4) witnesses who all produced certain documents and items in support of evidence. Thereafter, the side of the prosecution was closed.

5. The accused/respondents were examined in terms of Section 342 Cr.PC, wherein they had denied the allegations leveled against them and pleaded their innocence.

6. Trial court after hearing the learned counsel for the parties and on assessment of evidence, by judgment dated 08.12.2023, acquitted the accused/respondent as stated above. Hence, this acquittal appeal.

7. Heard and perused.

8. It is observed that the presumption of innocence applies doubly upon acquittal, and that such a finding is not to be disturbed unless there is some discernible perversity in the determination of the trial Court that can be said to have caused miscarriage of justice. The 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, the factual conclusion could possibly be arrived at, the factual conclusion should not upset, except when palpably perverse, suffering from serious and material factual infirmities as has been held by the Supreme Court in case of state v. Abdul Khalique (PLD 2011 Supreme Court 554).

9. The evidence so produced by the complainant Nadeem Khan, eye witness/mashir Koural Khan and IO/SIP Abdul Majid Dahraj is reassessed and found that the trial Court has correctly identified the contradictions in their evidence and has assigned reasons in the impugned judgment properly, resulting to the acquittal of accused/respondents on that basis which in my view is a correct assessment of the trial Court which cannot be interfered by this Court in view of the above settled principle of Supreme Court. Accordingly, acquittal recorded by the trial Court in favour of respondents/accused named above in impugned judgment dated 08.12.2023, is maintained. As such, the appeal against acquittal being without merits is dismissed.

J U D G E