

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
Criminal Acquittal Appeal No.S- 52 OF 2022

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The appellant **The State through** Prosecutor General Sindh, Mr. Shafi Muhammad Mahar Deputy, Prosecutor General.

The Respondent. Nemo.

Date of hearing : 19-01-2024.  
Date of decision : 19-01-2024.

## **J U D G M E N T**

**IRSHAD ALI SHAH, J.-.** The facts in brief necessary for disposal of instant CrI. Acquittal Appeal are that the private respondent while in custody led complainant Inspector Irshad Ali of PS Sarhad to recovery of an unlicensed pistol of 30 bore with magazine containing 03 live bullets, which he allegedly used for committing murder of Saeed Ahmed, for that he was booked and reported upon by the police. On conclusion of the trial, he was acquitted by learned Additional Sessions Judge (Hudood) Camp at Central Prison-I Sukkur vide judgment dated 08-12-2021, which the *State* has impugned before this Court by preferring the instant CrI. Acquittal Appeal.

2. It is contended by learned DPG for the State the learned trial Court has recorded acquittal of the private respondent ignoring the recovery of unlicensed weapon with bullets from him which allegedly was used by him for committing murder of an innocent person; therefore, his acquittal is to be examined by this Court by way of instant CrI. Acquittal Appeal.

4. Heard arguments and perused the record.

5. There is no independent witness to the recovery; the pistol allegedly recovered, as per the complainant was not sealed at the spot; such omission exposed its recovery to manipulation. In these circumstances, learned trial

Court was right to record acquittal of the private respondent, which is not found arbitrarily or cursory to be interfered with by this Court by way of instant CrI. Acquittal Appeal; particularly when the private respondent is said to have already been acquitted by this Court in main murder case by accepting his appeal.

6. In case of *State & others vs. Abdul Khaliq & 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 actual infirmities”.*

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

JUDGE

