

JUDGMENT SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Acquittal Appeal No.S-92 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objections.
2. For orders on MA-5379/2023
3. For hearing of main case.

18.08.2023

None present for the appellant.
Mr. Siraj Ahmed Bijarani, Assistant P.G.

JUDGMENT

ARSHAD HUSSAIN KHAN, J.- Through this Criminal Acquittal Appeal, the appellant / complainant has impugned the judgment dated 05.05.2023 passed by learned Civil Judge & Judicial Magistrate Digri-I, Mirpurkhas (Trial Court) in Criminal Case No.128 of 2022 (Re: The State v. Umar Din & others) arising out of Crime No.88 of 2022 registered at P.S Digri for offences under Sections 337-A(i), 337-F(i), 337-F(v), 504, 34 PPC, whereby respondents / accused namely Umar Din, Akbar Ali, Muhammad Ashraf and Muhammad Akram have been acquitted of the charges.

2. From the perusal of record it reflects that this appeal against acquittal was presented in the office on 03.06.2023 and since then it has not been pursued. On previous date of hearing i.e. 17.07.2023 the urgent application was allowed and the case was fixed for today; however, today the counsel is called absent without any intimation. However, the record has been perused with the assistance of leaned A.P.G.

3. From the record it appear that after a full dressed trial, the trial Court, keeping in view the evidence produced by the prosecution, acquitted respondents No.1 to 4. After having careful examination of the impugned judgment, I am of the considered view that the evidence as brought on record does not inspire confidence, hence, no illegality and infirmity has been committed by the trial Court in the impugned judgment while acquitting the respondents, which could warrant interference by this Court. Moreover, acquittal order could only be interfered with when the same is found perverse, arbitrary, unreasonable, ridiculous based on misreading of material evidence

or based on surmises unwarranted under the law, but in the instant case no such eventuality is found available. It is also settled principal of law that after getting acquittal, the accused always earns double presumption of his innocence and Superior Courts have avoided to interfere with such acquittal findings. There is no cavil with the legal proposition that an acquittal appeal stands on a different footings than an appeal against conviction. In acquittal appeal, the Superior Courts generally do not interfere with unless they find that miscarriage of justice has taken place. The factum that there can be a contrary view on re-appraisal of the evidence by the Court hearing acquittal appeal simpliciter would not be sufficient to interfere with acquittal judgment. Reliance can be placed upon case of **MUHAMMAD ASGHAR and another v. The STATE (PLD 1994 Supreme Court 301)**.

4. In view of above as well as keeping in view the pronouncements of the Hon'ble Supreme Court, it appears that instant appeal against acquittal has wrongly been filed, even the basic ingredients for initiating appeal against acquittal, as laid down by the Hon'ble Supreme Court of Pakistan in the case of **GHULAM SIKANDAR and another v. MUMARAZ KHAN and others (PLD 1985 Supreme Court 11)**, are also lacking in this case. Accordingly, this Appeal is dismissed alongwith pending application.

JUDGE

Shahid