ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Acquittal Appeal No. 371 of 2024

(Mst. Maria v. the State and others)

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For orders on MA No.6568/24
2. For orders on MA No.6569/24
3. For hearing of main case

21.05.2024

Mr. Saadat Hassan, advocate for the appellant

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1. Urgency granted.

2. Granted subject to all just exceptions.

3. It is alleged by the appellant that the private respondents in furtherance of their common intention besides causing fists and kicks blows pushed down her and her witness in a drainage lane and then went away by insulting them. Based on such allegations, she lodged an FIR with PS Maripur. The private respondents joined the trial and on conclusion whereof were acquitted by learned XXIIth- Judicial Magistrate Karachi West vide Judgment dated 26.04.2024, which is impugned by the appellant before this Court by preferring the instant acquittal appeal.

It is contended by the appellant that the learned trial Magistrate has recorded the acquittal of the private respondents, based on misappraisal of the evidence, therefore, their acquittal is to be examined by this court.

Heard arguments and perused the record.

The FIR of the incident has been lodged with a delay of about twenty days that too after due consultation; such delay could not be

overlooked. The evidence of the witnesses is found to be inconsistent on certain points. In these circumstances, the learned trial Magistrate was right to record the acquittal of the private respondents by extending them the benefit of the doubt; such acquittal is not found arbitrary/cursory to be interfered with by this Court.

In the case of *State and others vs. Abdul Khaliq and others (PLD 2011 SC-554),* it has been held by the Hon'ble 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".*

Having discussed above, the instant Acquittal Appeal fails and it is dismissed in *limine*.

JUDGE

Nadir