

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Acquittal Appeal No. S- 58 of 2023

The appellant	Mehboob Ali son of Moharram Ali Shar through Mr. Rukhsar Ahmed Junejo advocate.
The State.	Through Syed Sardar Ali Shah Rizvi, Additional Prosecutor General.
Private Respondents.	Nemo
Date of hearing	: 19-02-2024.
Date of decision	: 19-02-2024.

J U D G M E N T

IRSHAD ALI SHAH, J.-. It is alleged that the private respondents with rest of the culprits after having formed an unlawful assembly and in prosecution of its common object, maltreated the appellant, PWs Muharram, Mehmood, Waris and Gul Bahar by causing them *Sarota, Sariya and lathi blows* with intention to commit their murder and then went away by insulting the complainant party, for that the present case was registered. On conclusion of trial, they were convicted and sentence to various terms of imprisonment by learned IInd Assistant Sessions Judge, Sukkur, vide judgment dated 30-01-2023. On appeal, they were acquitted by learned Ist Additional Sessions Judge / (MCTC-I), Sukkur; consequently, vide judgment dated 15-05-2023, which the appellant has impugned before this Court by preferring the instant Crl. Acquittal Appeal.

2. It is contended by learned counsel for the appellant that learned appellant Court has acquitted the private respondents without lawful justification; therefore, their acquittal is to be examined by this Court by way of instant Crl. Acquittal Appeal, which is opposed by learned APG for the State by supporting the impugned judgment.

3. Heard arguments and perused the record.
4. Parties are disputed over ownership of the landed property. The evidence produced by the prosecution was inconsistent and moreso, on the basis of same evidence nine of the co-accused have already been acquitted by learned trial Court. In these circumstances, learned trial appellant Court right to record acquittal of the private respondents by accepting their plea of innocence by extending them benefit of doubt; therefore, their acquittal is not found arbitrarily or cursory to be interfered with by this Court by way of instant CrI. Acquittal Appeal.
5. 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”.

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

Judge