

IN THE HIGH COURT OF SINDH, BENCH AT SUKKURSpl. CrI. Acquittal Appeal No. D- 25 of 2020

The appellant	The State through Mr. Muhammad Farooque Ali Jatoi, Advocate
Respondent.	Ahmed Ali S/o Mehrab Mirani, through Mr. Shewak Ram Valecha, Advocate
Date of hearing	: 06-03-2024.
Date of decision	: 06-03-2024.

JUDGMENT

IRSHAD ALI SHAH, J.- It is alleged that on arrest from the private respondent was secured 1040 grams of charas by police party of PS ANF Sukkur, for that he was booked and reported upon and on conclusion of trial he was acquitted by learned Ist.Additional Sessions Judge/Special Judge Narcotics/MCTC, Sukkur vide judgment dated 05-03-2020, which the State/Appellant has impugned before this Court by preferring the instant Special Criminal Acquittal Appeal.

2. It is contended by learned counsel for the State/Appellant that learned trial Court has recorded acquittal of the private respondent on the basis of misappraisal of evidence, therefore, his acquittal is to be examined by this Court by way of instant Special Criminal Acquittal Appeal, which is opposed by learned counsel for the private respondent by supporting the impugned judgment by contending that the prosecution has failed to prove its case against the private respondent beyond shadow of doubt.

3. Heard arguments and perused the record.

4. Despite advance information about the incident no independent person was associated by complainant SIP Ali Gul to witness the possible arrest of the private respondent and recovery of the charas from him; such

omission on his part could not be overlooked. The charas was alleged to be in shape of pieces. How many pieces those were? Neither the complainant nor PW mashir PC-Zaheer Ahmed were able to disclose actual number whereof, which appears to be surprising. The private respondent has pleaded enmity with the complainant. In these circumstances, learned trial Court was right to record the acquittal of the private respondent by extending benefit of doubt to him; such acquittal is not found arbitrarily or cursory to be interfered with by this Court by way of instant Crl. 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 it is dismissed accordingly.

Judge