

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Acquittal Appeal No.S-14 of 2024

The appellant Roshan Ali son of Rajib Ali Mangi **through**
Mr. Waqar Ali Phulpoto advocate.

The Respondents Not on notice.

Date of hearing : 12-03-2024.
Date of decision : 12-03-2024.

JUDGMENT

IRSHAD ALI SHAH, J.-. It is alleged by the appellant that the private respondents after having formed an unlawful assembly and in prosecution of its common object have caused him injuries with iron rod and lathies and then went away by insulting him, for that the present case was registered. On conclusion of trial the private respondents were acquitted by learned IInd Judicial Magistrate/(MTMC) Khairpur vide judgment dated 16-12-2023, 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 trial Magistrate 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.

3. Heard arguments and perused the record.

4. The FIR of the incident has been lodged with delay of about 23 days; such delay having not been explained plausibly could not be over looked. The parties are already disputed over landed property. In these circumstances learned trial Magistrate was right to record acquittal of the

private respondents by extending them benefit of doubt, such acquittal is not found arbitrarily or cursory to be interfered with by this Court.

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 CrI: Acquittal Appeal fails and it is dismissed in limine, which even otherwise is time barred by 14 days.

Judge