

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Acquittal Appeal No.S-23 of 2024

(Fazaluddin Vs. The State.)

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1. For Orders on office objection.
 2. For Orders on MA No. 945/2024 (Ex.A)
 3. For hearing of main case.

ORDER.

01-04-2024.

Mr. Mirza Katohar, advocate for the appellant.

1. Over ruled.
2. Granted subject to all just legal exceptions.
3. It is alleged by the appellant that the private respondents obtained from his rupees six lacs to have a job for him, which he failed to have; consequently, he returned his money to him in shape of cheque, it was bounced by the concerned Bank, when was presented there for encashment. On the basis of such allegation, the appellant lodged an FIR with the police. The private respondent joined the trial and on conclusion whereof, he was acquitted by learned IInd Judicial Magistrate (MTMC) Khairpur vide judgment dated 30-01-2024, which is impugned by the appellant before this Court by preferring the instant CrI. Acquittal Appeal.

It is contended by learned counsel for the appellant that learned trial Magistrate has acquitted the private respondent without lawful justification; therefore, his acquittal is to be examined by this Court by way of instant CrI. Acquittal Appeal.

Heard arguments and perused the record.

The FIR of the incident has been lodged with delay of about five months; such delay having not been explained plausibly could not be overlooked. Nothing has been brought on record which may suggest that the private respondent was capable to arrange for a job for the appellant other than merits. In these circumstances learned trial Magistrate was right to record acquittal of the private respondent by extending them benefit of doubt, such acquittal is not found arbitrarily or cursory to be interfered with by this Court.

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”.

In view of above; instant CrI: Acquittal Appeal fails and it is dismissed in limine.

Judge

Nasim/P.A