

`ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Acquittal Appeal No. 291 of 2024**  
(Malik Sabir Masih v. Zahid Ahmed Khan and 04 others)

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on MA No.5251/2024
2. For orders on MA No.5252/2024
3. For orders on MA No.5253/2024
4. For hearing of case

**26.04.2024**

Mr. Shams-u-Zaman Koondhar, advocate for the appellant  
-----

The facts in brief necessary for disposal of instant CrI. Acquittal Appeal are that the appellant filed a complaint against the private respondents for allegedly defamed him in social media, it was brought on record; the private respondents joined the trial and on conclusion whereof were acquitted by learned II-Judicial Magistrate Karachi Central vide Judgment dated 09.03.2024, it is impugned by the appellant before this Court by preferring the instant acquittal appeal.

2. It is contended by learned counsel for the appellant that learned trial Magistrate has recorded acquittal of the private respondents, on the basis of improper assessment of the evidence, ignoring the facts that the charge as framed was defective one; therefore, such acquittal is to be examined by this court.

3. Heard arguments and perused the record.

4. The complaint has been filed with considerable delay; the appellant and private respondents were having a business transaction with each other. Civil litigation between them is also going on. No finding could be reversed on the basis of omission or error in the charge as is mandated by Section 537 Cr.PC. In these circumstances, learned trial Magistrate was right to record the acquittal of the private respondents by extending them benefit of doubt; such acquittal is not found arbitrary/cursory to be interfered with by this Court.

5. In 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”.*

6. In view of above, the instant Acquittal Appeal fails, it is dismissed in *limine* alongwith all pending applications.

JUDGE