

**IN THE HIGH COURT OF SINDH,  
BENCH AT SUKKUR.**

Criminal Acquittal Appeal No.S-46 of 2024

Date of hearing: 15.10.2024

Date of decision: 15.10.2024

**None present for the appellant**

**JUDGMENT**

**ZULFIQAR ALI SANGI, J.-** Through this Criminal Acquittal Appeal, the appellant/complainant has assailed the judgment dated 13.03.2024, passed by 1<sup>st</sup>. Civil Judge and Judicial Magistrate, Pano Akil, in Criminal Case No.228/2023, outcome of FIR bearing Crime No.24/2023, u/s 114, 147, 148, 149, 506(ii), 504, 429 PPC, registered at PS Dadloi Sukkur, whereby the private respondents/accused have been acquitted by extending them benefit of doubt.

**2.** The brief facts of the case are that on 02-07-2023, complainant Mir Hassan, registered FIR No. 24 of 2023 at Dadloi Police Station, Sukkur. He stated that on 29-06-2023, while he along with his brother Wahid Bux and nephew Ameer Hussain were available at the fish pond situated near his house for flowing water in the pond. The accused namely, Muhammad Punhal alias Hazaro, Abdul Hafeez, Aziz Ahmed, Ghulam Murtaza, Muhammad Hussain, Abdul Hafeez, Qadeer Ahmed and Zamir Ahmed alias Saghir Ahmed, duly armed with weapons and poison and overpowered them. On the instigation of accused Muhammad Punhal alias Hazaro, accused Ghulam Murtaza and Hussain thrown poison in the fish pond and killed the fish available in the pond, hence caused loss and then went away while issuing threats of dire-consequences. Thereafter, the complainant went to police station and lodged the FIR.

**3.** After full-fledged trial and hearing the parties, learned trial Court acquitted the private respondents vide impugned judgment dated 13.03.2024, hence, this criminal acquittal appeal.

**4.** The instant Criminal Acquittal Appeal is pending since 09.04.2024, however, none has appeared to pursue it.

**5.** It reflects from the impugned judgment that the learned trial court has mainly acquitted the private respondents on the reasoning mentioned in paragraph No.7 of impugned judgment which is reproduced as under:-

*“7- It is the case of the complainant as per FIR that on 29.06.2023 when complainant along with his witnesses went to fish pond at 0700 pm in evening for flowing of water where accused Muhammad Punhal @ Hazaro armed with gun, Abdul Hafeez with TT pistol, Uzair Ahmed with lathi, Ghulam Murtaza and Muhammad Hussain with poison bottles, Abdul Hafeez with hatchet, Qadeer Ahmed and Sagheer Ahmed with lathies, all accused pointed their weapons and directed to be silent, accused Muhammad Punhal instigated other accused to throw poison in the pond and after threats accused fled away, complainant informed to nekmards and on 2.7.2023 lodged FIR. Evidence of complainant was recorded at Ex.12 wherein examination-in-chief complainant deposed and supported the contents of his FIR, whereas during cross examination complainant deposed that on the first day of incident he informed to police who visited place of wardhat and recorded video and pictures however, no any record of such video or pictures was exhibited during evidence. PW Ameer Hussain was examined at Ex.13 who in his examination-in-chief did not support the complainant as complainant deposed that accused Uzair Ahmed was armed with TT pistol whereas PW Ameer Hussain deposed that accused Uzair Ahmed was armed with lathi, which has created doubt in the ocular account as seen by the complainant and witnesses. Complainant while his examination-in-chief has not deposed the word bhatta whereas witness deposed that accused persons threatened to give them bhatta amount. The statement of complainant Mir Hassan and PW Ameer Hussain regarding the ocular account has been contradictory to each other which has created doubt in the prudent mind and even slightest doubt will favour the accused, therefore, the point No.1 is answered as Doubtful.”*

**6.** It is well settled by now that the scope of appeal against acquittal is very narrow and there is a double presumption of innocence and that the Courts generally do not interfere with the same unless they find the reasoning in the impugned judgment to be perverse, arbitrary, foolish, artificial, speculative and ridiculous as was held by the Honourable Supreme Court in the case of State Versus Abdul Khaliq and others (PLD 2011 SC 554), wherein the Hon’ble Supreme Court has held as under:-

*“From the ratio of all the above pronouncements and those cited by the learned counsel for the parties, it can be deduced 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. It has been categorically held in a plethora of judgments that 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. Moreover, in number of dictums of this Court, it has been categorically laid down that such judgment should not be interjected until the findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous (Emphasis supplied). The Court of appeal should not interfere simply for the reason that on the re-appraisal 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. It is averred in The State v. Muhammad Sharif (1995 SCMR 635) and Muhammad Ijaz Ahmad v. Raja Fahim Afzal and 2 others (1998 SCMR 1281) that the Supreme Court being the final forum would be chary and hesitant to interfere in the findings of the Courts below. It is, therefore, expedient and imperative that the above criteria and the guidelines should be followed in deciding these appeals.”*

**7.** The sequel of above discussion is that the learned trial Court has committed no illegality or irregularity while recording acquittal of the private respondents/accused by way of impugned judgment, which even otherwise does not call for any interference by this Court by way of instant Criminal Acquittal Appeal, the same fails and is dismissed accordingly together with listed application.

**J U D G E**