

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Acquittal Appeal No.393 of 2019

Date

Order with signature of Judges

For hearing of main case

13.10.2022.

Mr. Muhammad Naeem Khan, Advocate for Appellant.

Mr. Nasir Raza Rind, Advocate for Respondent No.2

Mr. Ali Haider Saleem, Addl. Prosecutor General Sindh.

The court of Sessions Judge, Malir Karachi in Sessions Case No.446 of 2018, FIR No.39 of 2018 u/s. 302/34 PPC registered at PS Bin Qasim vide judgment dated 13.06.2019 acquitted the alleged accused Zainullah (Respondent No.2 herein) as such the appellant has filed this appeal against acquittal.

2. We have heard learned counsel for the appellant, gone through the record and considered the impugned judgment.

3. The main reason for acquittal of Respondent No.2 Zainullah is set out in para-30 of the impugned judgment which is reproduced herein below:-

“30. From the evidence of both independent PWs namely Ali Muhammad and Zulfiqar, it is quite clear that one has deposed that the body descriptions of accused who was boarded on motorcycle were not matched with the present accused, while other was also not sure about the identity of present accused, therefore, the version of complainant and PWs Abdul Majeed not stands corroborated by the independent evidence of both PWs.”

4. That it is quite clear from the above paragraph that there was a serious doubt regarding identification of the acquitted person and as such we find that the trial court has not made any error in its judgment. We also do not find any legal infirmity in the impugned judgment keeping in view that legal position regarding an appeal against acquittal is well settled in that an appeal against acquittal the scope is very narrow and the Respondent No.2 Zainullah has double presumption of innocence.

5. Keeping in view this legal standard we find that there are no grounds to admit this appeal against acquittal for regular hearing as such the same is hereby dismissed in limine.

JUDGE JUDGE