

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA**

**Criminal Appeal No. S-36 of 2022**

along with

Criminal Acquittal Appeal No. S-76 of 2022

Criminal Revision Application No. S-52 of 2022

Appellant Jameel Ahmed Chandio in Cr. Appeal No. 36/2022 & Respondent in Cr. Rev. Appln No.S-52/2022	:	Through Mr. Ashfaque Hussain Abro Advocate
Complainant Tariq Hussain Brohi, who is also Applicant in Cr. Rev. Appln No.S-52/2022 & Appellant in Cr. Acq. Appeal No. S-76/2022	:	Through Mr. Noorullah G. Rind, Adv
Respondent Nooruddin in Cr. Acq. Appeal No.S-76/2022	:	Through M/s. Muhammad Afzal Jagirani, Hayat Muhammad Pathan & Kiran Manzoor Mirani, Advocates
The State	:	Through Mr. Ali Anwar Kandhro, Addl. Prosecutor General, Sindh
Dates of Hearing	:	15.09.2025
Date of Judgment	:	15.09.2025

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**J U D G M E N T**

**Muhammad Saleem Jessar, J.-** Through this single judgment, I propose to dispose of captioned Criminal Appeal, Cr. Revision Application as well as Cr. Acquittal Appeal, as all of them are the outcome of one and the same judgment.

2. Criminal Appeal No.S-36 of 2022 has been filed by Appellant Jameel Ahmed Chandio against the judgment dated 27.07.2022 passed by IInd

Additional Sessions Judge, Kambar (trial Court) whereby accused Jameel Ahmed Chandio has been convicted for an offence punishable under section 395 PPC by awarding sentence to suffer R.I for five years and to pay fine of Rs.200,000/- (Rupees Two Hundred Thousand Only) and in case of default he will suffer S.I for 06 months more. By the same judgment the trial Court acquitted accused Nooruddin Khooharo.

3. Cr. Revision Application No.S-52 of 2022 has been filed by Applicant / Complainant Tarique Hussain Brohi for enhancement of sentence awarded to accused Jameel Ahmed Chandio, whereas through Cr. Acquittal Appeal No.S-76 of 2022 the complainant / appellant has assailed acquittal of accused / respondent Nooruddin Khooharo vide same impugned judgment.

4. Brief facts of the prosecution case, are that complainant Tarique Hassan son of Ali Hassan filed a direct complaint stating therein that on 23.02.2015 he along with his relatives namely, Ameer Jan, Ghulam Farooque and other house inmates was available in his house, meanwhile at about 09.00 am, they saw two police mobiles parked at the door of their house. In one police mobile SHO Jameel Ahmed Chandio of PS Mirokhan was sitting whereas in other police mobile DSP Mirokhan namely, Nooruddin Khooharo were sitting. Besides, 25/30 unidentified police constables armed with government weapons and wearing uniform also accompanied with them in two police mobiles. They entered into the house of complainant, overpowered the complainant party and declaring by them to be criminals, took away 49 cows, 41 sheep, 05 goats, 03 buffalos and 03 kids. The complainant approached SHO Jameel Ahmed Chandio on the same day, who disclosed that 29 cows, 41 sheep and 05 goats are at Mirokhan cattle shade whereas rest of the cattle are with DSP Nooruddin Khoonharo. Then the complainant met with DSP Nooruddin, who refused to return the cattle. Thereafter, complainant party also met with Incharge of cattle shade, who also refused to return the cattle without consent of SHO Jameel Ahmed Chandio. In the circumstances, complainant filed CP No.S-210 of 2015 through his counsel before this Court, in which order was passed for conducting inquiry through SSP Kamber-Shahdadkot. Accordingly, on the direction of SSP Kambeer-Shahdadkot, inquiry was conducted by DSP Nasirabad, wherein SHO Jameel Ahmed Chandio was found guilty and DSP Nooruddin Khooharo was found innocent and such inquiry report was submitted before this Court.

Consequently, consequent upon said report, the petition was disposed of. Thereafter, the complainant approached to SHO P.S Mirokhan for registration of FIR, who refused to do so on the ground that the offence had taken place within jurisdiction of PS Gaibidero, thus, the complainant approached to SHO PS Gaibidero but he also refused to lodge FIR, hence the complainant filed direct complaint.

5. After completion of legal formalities under section 200 & 202 Cr. P.C, the direct complaint was brought on regular file and consequently it was treated as a Sessions Case vide S.C No.124/2018 Re-Tarique Hussain Versus Jameel Ahmed Chandio and others. Accordingly, BWs were issued against both accused, who subsequently joined the trial after furnishing required surety.

6. A formal Charge was framed against accused Jameel Ahmed and Nooruddin Khooharo vide Ex.2, to which both accused pleaded not guilty and claimed to be tried vide their pleas Ex.2/A & Ex.2/B respectively.

7. In order to substantiate its case, the complainant got examined his witness Ameer Jan at Ex.3. The complainant Tarique Ali also got examined himself at Ex.4 and produced report of SSP Kamber, order of this Court at Circuit Court, Larkana in the C.P., letter of SSP Kamber and order dated 27-10-2017 penned down by Circuit Court, Larkana as Ex.4/A to Ex.4/D respectively.

8. Thereafter, complainant side of evidence was closed by counsel for the complainant vide statement Ex.6.

9. Statements of accused Muhammad Jameel and Nooruddin Khooharo in terms of Section 342 Cr. P.C were recorded vide Ex.7 & Ex.8, wherein they claimed themselves to be innocent and alleged their false implication. However, neither they got examined themselves on oath, nor produced any witness in their defense.

10. After formulating the points for determination in the case, recording evidence of complainant's witnesses and hearing counsel for the parties, as stated above, the trial Court convicted and sentenced accused Jameel Ahmed Chandio, whereas accused Noorudedin Khooharo was acquitted, hence the

convict has filed Cr. Appeal No.S-36 of 2022, whereas complainant Tarique Hussain has filed Cr. Acq. Appeal No.S-76 of 2022 against the acquittal of accused Noorduiddin, so also Cr. Revision Application No.S-52 of 2022 for enhancement of sentence awarded to accused Jameel Ahmed Chandio.

11. I have heard learned advocates appearing for the parties as well as learned Additional P.G. appearing for the State and perused the material made available before me on the record with their able assistance.

12. Mr. Ashfaque Hussain Abro, learned counsel for accused / appellant Jameel Ahmed Chandio argued that alleged incident had occurred on 23.02.2015, whereas the direct complaint was filed on 03.11.2017 i.e. after more than two years. He further submitted that the complainant had filed C. P. No.S-210 of 2015 before this Court which, by way of order dated 14.04.2015, was disposed of and the SSP, Kamber-Shahdadkot was directed to conduct enquiry into the allegations and submit his report within 30 days. Accordingly, the SSP, Kamber had appointed the then SDPO/DSP Nasirabad to conduct enquiry into the allegations, who after conducting such enquiry submitted such report before this Court on 10.06.2015 which is available at page-45 of the paper book. Mr. Abro further submitted that the Enquiry Officer was not examined by the complainant before the trial Court although he being the author of the Enquiry Report was an essential witness. According to Mr.Abro, even if said report be presumed to be true and based on actual facts, even then it cannot be relied upon to maintain conviction against the appellant as it's author was not examined or produced by the complainant before the trial Court. He referred to the evidence of complainant recorded vide Ex.4, which is available at page 39 of the paper book and submitted that the Complainant himself had specifically deposed that DSP Nooruddin Khooharo had directed the police personnel to take away the cattle from his house and said Nooruddin Khooharo has been acquitted whereas on the basis of same set of evidence, accused Jameel Ahmed Chandio has been convicted by the trial Court. He argued that no concrete evidence was adduced before the trial Court, upon on the basis whereof accused Jameel Ahmed Chandio could have been convicted, despite that, the trial Court without properly appreciating the evidence produced by the complainant, has convicted the accused / appellant which has caused miscarriage of justice. He further submitted that though about 25 / 30 police personnel were also shown

as accused in this case, yet none of them was arrayed as accused, even the Enquiry Officer did not bother to enquire or disclose the name of any of them in his report. Lastly, he prayed that by allowing Cr. Appeal No.S-36 of 2022, the impugned judgment may be set aside to the extent of accused Jameel Ahmed Chandio and he may be acquitted of the charge. He further submitted that the enhancement of sentence sought for by the complainant through connected criminal revision application is also misconceived; hence, he also prayed for its dismissal.

13. Learned Additional P.G. appearing for the State opposed the appeal on the ground that appellant/convict Jameel Ahmed Chandio has specifically been named in the complaint and was also found guilty of the charges during the enquiry conducted by DSP/SDPO Nasirabad, therefore, he is not entitled for the relief sought for. However, when confronted with the fact that the Enquiry Officer was not examined or produced before the trial Court, learned Additional P.G. could not furnish any satisfactory reply. He also admitted that co-accused Nooruddin Khooharo, against whom specific allegation was leveled by the complainant, has been acquitted and the role attributed to appellant Jameel Ahmed Chandio is almost identical, despite that, he was found guilty of the charge whereas accused Nooruddin Khooharo was let-off by the enquiry officer, so also acquitted by the trial Court.

14. Mr. Noorullah G. Rind, learned counsel for the complainant, also opposed the appeal and adopted the arguments advanced by learned Additional P.G. As far as criminal revision application for enhancement of sentence of appellant Jameel Ahmed is concerned, he submitted that sufficient material was produced and tangible evidence was adduced by the complainant before the trial Court with specific allegation, yet the trial Court did not properly weighed the same, and has awarded lesser punishment which is inadequate. As far as criminal acquittal appeal is concerned, he submitted that the trial Court did not discuss the evidence in proper manner and has wrongly acquitted the respondent of the charge. He; however, referred to para-22 of the impugned judgment and prayed that by allowing appeal against acquittal the respondent may be convicted for the offence he has committed. Mr. Rind also submitted that the complainant and PW Ameer Jan had specifically supported the case and there was no ambiguity which

may warrant lesser punishment to appellant Jameel Ahmed or acquittal of respondent Nooruddin Khooharo.

15. Mr. Muhammad Afzal Jagirani, Advocate assisted by M/s. Hayat Muhammad Pathan and Kiran Manzoor Mirani, learned Counsel for respondent Nooruddin Khooharo in Cr. Acqtl. Appeal No.S-76/2022, submitted that though he was nominated in the complaint; however, during the enquiry he was found innocent and was let-off; hence the trial Court has rightly acquitted him of the charge. They; therefore, submitted that by dismissing appeal against acquittal, the judgment passed by the trial Court may be maintained to the extent of acquittal of respondent Nooruddin Khooharo.

16. In the instant case there are certain discrepancies, defects and lacunas surfaced during course of investigation which create serious doubts in the case of the complainant.

17. From perusal of the impugned judgment it seems that the trial Court has laid much emphasis to the report of the Enquiry Officer in which he gave finding that accused / appellant SHO Jameel Ahmed Chandio has been found to be involved in the commission of alleged offence, whereas he exonerated accused DSP Nooruddin of the allegations levelled by the complainant. However, the author of said Enquiry Report viz. DSP/SDPO Nasirabad was not examined or produced before the trial Court. Needless to emphasize that the convicted accused Jameel Ahmed Chandio, who was found involved in alleged offence, had a right to cross-examine the author of the enquiry report but they were deprived of such right. As such the credibility and veracity of such enquiry report became questionable.

18. In this connection, reference can be made to the case of **ZAHID KARIM Vs. THE STATE**, reported in **2021 P.Cr.L.J 308 [Islamabad]**, wherein it was held:

*“11. In the present case, the Investigating Officer has also recorded the statement of Agha Khalid Zubair, the Inquiry Officer, who conducted the inquiry against the appellant/convict and others as well as Mst. Shabana Ashraf. The said inquiry officer was the person who could have strengthened the case of prosecution being an important witness. His evidence carries more weight than the statement of any other official witness, but the evidence of this witness*

*was withheld by the prosecution without any plausible reason or justification, whereas the evidence of said witness was the best piece of evidence, which the prosecution could have relied upon for proving the case against the appellant/convict, but for the reasons best known, his evidence was withheld and he was not examined. Once the statement of any witness is recorded, his examination before the Court is necessary. It is evident from statement of PW.1 that the inquiry was conducted by Agha Khalid Zubair, who submitted his findings, on the basis whereof, the instant case was registered against the appellant. The non-examination of the said witness by the prosecution creates a presumption under Illustration (g) of Article 129 of Qanun-e-Shahadat Order, 1984 that had the said witness examined in the Court, his evidence would have been unfavorable to the prosecution. Although, the prosecution was not bound to produce each and every witness, but if the prosecution failed to produce such witness who was the central figure and all the story revolved around him, then the prosecution story would become doubtful."*

19. It is also note-worthy that in the FIR as well as in the evidence of two alleged eye-witnesses it has been deposed that alongwith accused SHO Jameel Ahmed Chandio and DSP Nooruddin, there were also 25/30 police personnel who had taken away the cattle of the complainant party, thus they were also involved in the commission of the alleged offence. However, none of such police officials has been made accused in the case. Even the enquiry officer also did not take pains to record statements of the aforesaid police officials nor even has given any finding as to whether the said police officials were or were not guilty of the offence alleged by the complainant. This is also injurious to the complainant's case.

20. From perusal of the contents of the complaint filed by the complainant as well as the alleged ocular testimony of the complainant and P.W. Ameer Jan, it is apparent that they have categorically deposed that at the time of alleged incident two police mobiles had come there and accused / appellant Jameel Ahmed Chandio was sitting in one mobile whereas acquitted accused Nooruddin was sitting in another mobile. They have involved both the accused in the commission of alleged offence. The complainant also deposed that when he approached accused Jamil Ahmed Chandio he told him that 29 cows were deposited by him in Behram Dhak, 41 sheaves and five goats were deposited by him in Miro Khan Dhak **while the remaining cattle was taken away by DSP Nooruddin**. From this it is clear that the complainant has also involved acquitted accused Nooruddin in the commission of alleged offence.

Despite this, accused DSP Noorduiddin was acquitted by the trial Court and on the basis of same set of evidence, present appellant Jameel Ahmed Chandio was convicted which is contrary to *rule of consistency*.

21. In the impugned judgment, the trial Court, while acquitting accused Nooruddin has not assigned any convincing reasons. The only reason assigned by it was that **the case of accused DSP Nooruddin Khoonharo appears on different footing from the case of accused Jameel Ahmed Chandio as accused Nooruddin Khoonharo was found innocent during inquiry made under the orders of this Court**. I am afraid the trial Court is under legal obligation to decide as to whether an accused is or is not guilty of committing the offence alleged against him by the prosecution and, in the instant case, by the complainant after assessing and appraising the evidence of prosecution (complainant's) witnesses and minutely scrutinizing all the material producing before it during the course of trial.

22. As stated above, in the complainant so also during course of recording evidence, the prosecution witnesses have nominated and categorically involved acquitted accused Nooruudin too. Making basis to his acquittal on the strength of enquiry report held on the orders passed by this Court whose author has not been examined and produced before the trial Court, does not seem to be in consonance with settled principles of law, equity and justice.

23. Needless to emphasize that '*rule of consistency*' demands that if an accused has been acquitted from the charge by disbelieving same set of evidence, other accused charged with similar allegations is also entitled to the same concession / treatment and the evidence of that particular witness cannot be made basis for convicting other accused vide case of *Mohammad Asif Vs. The State* reported in 2017 SCMR 486.

24. Yet in another case reported as *Mohammad Akram vs. The State* (2012 SCMR 440) the Apex Court while holding that *same set of evidence which was disbelieved qua the involvement of co-accused could not be relied upon to convict the accused on a capital charge*, acquitted the accused.

25. In another case reported as *Umar Farooque v. State* (2006 SCMR 1605) Honourable Supreme Court held as under:



*“On exactly the same evidence and in view of the joint charge, it is not comprehensible, as to how, Talat Mehmood could be acquitted and on the same assertions of the witnesses, Umer Farooque could be convicted.”*

26. It is also significant to point out that although the complainant in the complaint, so also in his evidence and P.W. Ameer Jan too in his evidence categorically stated that at the time of alleged incident alongwith them, P.W. Ghulam Farooq was also present in the house of complainant and he also witnessed the alleged incident. However, very strangely, said Ghulam Farooq was not examined before the trial court, likewise, as stated above, the Enquiry Officer viz. DSP/SDPO Nasirabad was also not examined before the trial Court although their evidence was very much important and essential.

27. This is also injurious to the complainant’s case as it is settled principle of law that despite availability of essential witnesses, non-examination of such witnesses in the case gives an inference that in case such witnesses had been examined, they would not have supported the prosecution case, as envisaged under Article 129(g) of Qanoon-e-Shahadat Order, 1984.

28. In this connection, reference may be made to a decision of Honourable Supreme Court given in the case of *Abdul Ghani Vs. The State* reported in **2022 S C M R 2121**, wherein a Full Bench of Honourable Supreme Court held as under:

*“Thereafter, according to Noor Ullah Khan, S.I. (PW-4) on 08.06.2011 he sent the sample parcels to the office of Chemical Examiner but according to the report of Chemical Examiner the sample parcels were delivered there by one Head Constable No. 25 on 10.06.2011 but the said Head Constable was not produced by the prosecution during the trial. The learned state counsel could not explain as to why the said Head Constable was not produced to confirm the safe transmission of the sample parcels to the office of Chemical Examiner so an adverse presumption under Article 129(g) of the Qanun-e-Shahadat Order, 1984 can be drawn against that person that he is not supporting the prosecution case. Non-production of the said Head Constable No. 25 indicates that safe transmission has also not been established by the prosecution. It has already been held by this Court in the cases of *Amjad Ali v. The State* (2012 SCMR 577), *Ikramullah and others v. The State* (2015 SCMR 1002), *Taimoor Khan and another v. The State and another* (2016 SCMR 621), *The State through Regional Director ANF v. Imam Bakhsh and others* (2018 SCMR 2039) and *Khair-ul-Bashar v. The State* (2019 SCMR 930) that in a case containing the above mentioned defect on the part of the prosecution, it cannot be held with*

*any degree of certainty that the prosecution had succeeded in establishing its case against an accused person beyond the shadow of doubt."*

29. Prior to above decision, in the case of *Bashir Ahmed alias Manu vs. The State* reported in 1996 SCMR 308 it was held by Honorable Supreme Court that *despite presence of natural witnesses on the spot they were not produced in support of the occurrence an adverse inference under Article 129(g) of Qanun-e-Shahadat Order, could easily be drawn that had they been examined, they would not have supported the prosecution version.* In another case reported as *Mohammad Shafi vs. Tahirur Rehman (1972 SCMR 144)* it was held that *large number of persons had gathered at the place of occurrence but prosecution failing to produce single disinterested Witness in support of its case, therefore no implicit reliance could be placed on the evidence of interested eye-witnesses.*

30. In the case reported as *Hunar Shah alias Anar Shah and another Vs. Khan Zad Gul and another (2014 YLR 1180)*, it was held as under:

*"The inference regarding non-production of this important independent witness would go against the prosecution that had he been produced his statement wouldn't have been favourable to prosecution. It would also reflect that prosecution wanted to suppress material evidence."*

31. It is well a settled principle of law that the prosecution, and in a case of Direct Complaint, the complainant is bound under the law to prove its case against the accused beyond any shadow of reasonable doubt. It has also been held by the Superior Courts that conviction must be based and founded on unimpeachable evidence and certainty of guilt, and any doubt arising in the prosecution case must be resolved in favour of the accused. In the case reported as *Wazir Mohammad Vs. The State (1992 SCMR 1134)* it was held by Honourable Supreme Court as under:

*"In the criminal trial whereas it is the duty of the prosecution to prove its case against the accused to the hilt, but no such duty is cast upon the accused, he has only to create doubt in the case of the prosecution."*

32. In another case reported as *Shamoon alias Shamma Vs. The State (1995 SCMR 1377)* it was held by Honourable Supreme Court as under:

*“The prosecution must prove its case against the accused beyond reasonable doubts **irrespective of any plea raised by the accused in his defenc.** Failure of prosecution to prove the case against the accused, entitles the accused to an **acquittal.**”*

33. Reference may be also be made to a recent decision given by a Division Bench of Baluchistan High Court in the case of **Muhammad Rafique** Vs. **The State**, reported in 2025 YLR 169 [Balochistan], where it was held as under:

*“13. It is a well-established principle of administration of justice in criminal cases that finding guilt against an accused person cannot be based merely on the high probabilities inferred from evidence in a given case. The finding regarding his guilt should be rested surely and firmly on the evidence produced in the case and the plain inferences of guilt that may irresistibly be drawn from that evidence. Mere conjectures and probabilities cannot take the place of proof. Suppose a case is decided merely on high probabilities regarding the existence or non-existence of a fact to prove the guilt of a person; in that case, the golden rule of giving "benefit of the doubt" to an accused person, which has been a dominant feature of the administration of criminal justice in this country with the consistent approval of the Constitutional Courts, will be reduced to naught.*

*14. The prosecution is under obligation to prove its case against the accused person at the standard of proof required in criminal cases, namely, beyond reasonable doubt standard. It cannot be said that this obligation was discharged by producing evidence that merely meets the preponderance of probability standards applied in civil cases. Suppose the prosecution fails to discharge its said obligation, and there remains a reasonable doubt, not an imaginary or artificial doubt, as to the accused person's guilt. In that case, the benefit of that doubt is to be given to the accused person as a right, not as a concession.”*

34. Needless to emphasize the well settled principle of law that the accused is entitled to be extended benefit of doubt as a matter of right and not as a grace or concession. In present case, there are various factors, as detailed above, which create doubts and put dents in the prosecution case. Even an accused cannot be deprived of concession of the benefit of doubt merely because there is only one circumstance which creates doubt in the prosecution story. In the case of **Ahmed Ali and another** Vs. **The State** reported in 2023 **SCMR 781**, a Full Bench of Honourable Supreme Court has held as under:

*“12. Even otherwise, it is well settled that for the purposes of extending the benefit of doubt to an accused, it is not necessary that there be multiple infirmities in the prosecution case or several circumstances creating doubt. A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle the accused to its benefit, not as a matter of grace and concession but as a matter of right. Reliance in this*

*regard may be placed on the cases reported as Tajamal Hussain v. The State (2022 SCMR 1567), Sajjad Hussain v. The State (2022 SCMR 1540), Abdul Ghafoor v. The State (2022 SCMR 1527 SC), Kashif Ali v. The State (2022 SCMR 1515), Muhammad Ashraf v. The State (2022 SCMR 1328), Khalid Mehmood v. The State (2022 SCMR 1148), Muhammad Sami Ullah v. The State (2022 SCMR 998), Bashir Muhammad Khan v. The State (2022 SCMR 986), The State v. Ahmed Omer Sheikh (2021 SCMR 873), Najaf Ali Shah v. The State (2021 SCMR 736), Muhammad Imran v. The State (2020 SCMR 857), Abdul Jabbar v. The State (2019 SCMR 129), Mst. Asia Bibi v. The State (PLD 2019 SC 64), Hashim Qasim v. The State (2017 SCMR 986), Muhammad Mansha v. The State (2018 SCMR 772), Muhammad Zaman v. The State (2014 SCMR 749 SC), Khalid Mehmood v. The State (2011 SCMR 664), Muhammad Akram v. The State (2009 SCMR 230), Faheem Ahmed Farooqui v. The State (2008 SCMR 1572), Ghulam Qadir v. The State (2008 SCMR 1221) and Tariq Pervaiz v. The State (1995 SCMR 1345)."*

35. In the recent case of RAMESH KUMAR (2024 MLD 608), it was held:

*"15. Needless to mention that while giving the benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of such doubt, not as a matter of grace and concession, but as a matter of right. It is based on the maxim, "it is better that ten guilty persons be acquitted rather than one innocent person be convicted". Reliance in this behalf can be made upon the cases of Tariq Pervez v. The State (1995 SCMR 1345), Ghulam Qadir and 2 others v. The State (2008 SCMR 1221), Muhammad Akram v. The State (2009 SCMR 230) and Muhammad Zaman v. The State (2014 SCMR 749)."*

36. For the foregoing reasons, Criminal Appeal No.S-36 of 2022 is allowed and the conviction and sentence awarded to the accused/appellant Jameel Ahmed Chandio vide impugned judgment dated 27.07.2022 passed by learned 2<sup>nd</sup> Additional Sessions Judge, Kambar, in Sessions Case No.124/2018, is set aside to the extent of accused/appellant Jameel Ahmed Chandio only. Consequently, he is acquitted of the charge.

37. Consequent upon allowing criminal appeal filed by accused Jameel Ahmed Chandio against his conviction and sentence and his acquittal of the charges, Cr. Revision Application No.S-52 of 2022 filed by complainant Tarique Hussain for enhancement of sentence awarded to accused Jameel Ahmed Chandio, has become infructuous and is disposed of accordingly.

38. Now, I advert to Cr. Acquittal Appeal No.S-76 of 2022 filed by the complainant against the acquittal of accused Nooruddin.

39. For the sake of brevity, it may be observed that all the grounds and reasons discussed above for allowing criminal appeal filed by accused Jameel Ahmed Chandio against his conviction and sentence are also available to acquitted accused Nooruddin. However, his case is on better footing because he, having been acquitted by the trial Court, has earned presumption of double innocence.

40. It may be observed that the criteria for deciding an appeal against conviction and an appeal against acquittal of an accused, is totally different from each other, inasmuch as, it is settled principle of law that an accused before his conviction is presumed to be innocent and if after trial, he is acquitted, in such an eventuality he earns double presumption of innocence, thus, an acquittal judgment or order normally does not call for any interference and the same could be interfered with only in exceptional case. In the case of **AHMED OMAR SHEIKH and others** reported in **2021 S C M R 873**, it was held by a Full Bench of Honourable Supreme Court as under:

*“33. Admittedly the parameters to deal with the appeal against conviction and appeal against acquittal are totally different because the acquittal carries double presumption of innocence and same could be reversed only when found blatantly perverse, illegal, arbitrary, capricious or speculative, shocking or rests upon impossibility. If there is a possibility of a contrary view even then acquittal could not be set aside as has been settled in the cases of *The State v. Khuda Dad and others* (2004 SCMR 425), *Muhammad Nazir v. Muhammad Ali and another* (1986 SCMR 1441), *Rehmatullah Khan v. Jamil Khan and another* (1986 SCMR 941), *Mst. Daulan v. Rab Nawaz and another* (1987 SCMR 497) and *Gulzar Hussain v. Muhammad Dilawar and others* (1988 SCMR 847).”*

41. In the case of **SHER MUHAMMAD KHASKHELI Vs. 2ND ASSISTANT SESSIONS JUDGE and 6 others** reported in **2021 Y L R 1759**, a Division Bench of this Court, while quoting various decisions of Honourable Supreme Court, held as under:

*“8. The principles for appreciation of evidence in appeal against the acquittal are now well settled, for, an accused is presumed to be innocent and if after trial, he is acquitted, he*

*earns double presumption of innocence and acquittal judgment or order normally does not call for any interference unless it is found arbitrary, capricious, fanciful, artificial, shocking and ridiculous and while evaluating the evidence, difference is to be maintained in an appeal from conviction and an acquittal appeal and in the latter case the interference is to be made only when there is none reading and gross misreading of the evidence, resulting the miscarriage of justice and on perusal of the evidence no other decision can be given except that the accused is guilty. Reliance in this context is placed on the case of Yar Muhammad and 3 others v. The State (1992 SCMR 96). The Hon'ble apex Court of Pakistan has observed that:*

*"Unless the judgment of trial Court is perverse, completely illegal and on perusal of evidence no other decision can be given except that the accused is guilty or there has been complete misreading of evidence leading to miscarriage of justice, High Court will not exercise jurisdiction under section 417, Cr.P.C." It was further held that "in exercising this jurisdiction, High Court is always slow unless it feels that gross injustice has been done in the administration of criminal justice".*

*In the case of Muhammad Shafi v. Muhammad Raza and another (2008 SCMR 329). the Hon'ble Supreme Court of Pakistan has held that:*

*"An accused is presumed to be innocent in law and if after regular trial he is acquitted he earns a double presumption of innocence and there is a heavy onus on the prosecution to rebut the said presumption. In view of the discrepant and inconsistent evidence led, the guilt of accused is not free from doubt, we are therefore, of the view that the prosecution has failed to discharge the onus and the finding of acquittal is neither arbitrary nor capricious to warrant interference. The petition having no merit is dismissed and leave is refused."*

*In the case of State/Government of Sindh through Advocate General, Sindh, Karachi v. Sobharo (1993 SCMR 585), the Hon'ble Supreme Court of Pakistan has held that:*

*"While evaluating the evidence, difference is to be maintained in appeal from conviction and acquittal appeal and in the latter case interference is to be made only when there is gross misreading of evidence resulting in miscarriage of justice."*

*In the case of Muhammad Yaqoob v. Manzoor Hussain and 3 others (2008 SCMR 1549), the Hon'ble Supreme Court has held that:*

*"It needs no reiteration that when an accused person is acquitted from the charge by a Court of competent*

*jurisdiction then, double presumption of innocence is attached to its order, with which the superior Courts do not interfere unless the impugned order is arbitrary, capricious, fanciful and against the record. It was observed by this Court in Muhammad Mansha Kausar v. Muhammad Asghar and others 2003 SCMR 477 "that the law relating to re-appraisal of evidence in appeals against acquittal is stringent in that the presumption of innocence is double and multiplied after a finding of not guilty recorded by a competent Court of law. Such finding cannot be reversed, upset and disturbed except when the judgment is found to be perverse, shocking, alarming, artificial and suffering from error of jurisdiction or misreading/non-reading of evidence ..... law requires that a judgment of acquittal shall not be disturbed even though second opinion may be reasonably possible."*

*In the case of State and others v. Abdul Khaliq and others (PLD 2011 SC 554), Hon'ble Supreme Court has held 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 of wholly artificial or a shocking conclusion has been drawn. Moreover, in a 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. 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".*

42. In view of above, it can safely be held that the acquittal of accused Nooruddin does not call for any interference by this Court. Consequently Criminal Acquittal Appeal No.S-76 of 2022 is dismissed and the impugned judgment to the extent of acquittal of accused Nooruddin is hereby maintained.

43. Above are the reasons for short order passed on 15.09.2025.

Office to place a signed copy of this judgment in the connected matters.

**JUDGE**

Larkana  
Dated. 15.09.2025  
Approved for Reporting