

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Acquittal Appeal No. S- 128 of 2023

21.09.2026

Mr. Muhammad Jameel Ahmed, Advocate for appellant.

Mr. Jameel Ahmed Khanzada, Advocate for respondents.

Ms. Rameshan Oad, Deputy Prosecutor General, Sindh.

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JUDGEMENT

ZULFIQAR ALI SANGI J:- The captioned appeal is directed against the judgment dated 17.07.2023 passed by learned 3rd Additional Sessions Judge, Hyderabad in Sessions Case No.1012 of 2021 arisen out of Crime No.136 of 2021 registered u/s 397, 365, 511, 147, 149, 337-H(ii) PPC at PS A-Section Latifabad, whereby the learned trial Court after hearing the learned counsel for the parties, acquitted the respondents/accused u/s 245(1) Cr.P.C of the charge by extending them benefit of doubt.

2. Brief facts of the prosecution case are that on 19.05.2021 at 1515 hours, the accused Muhammad Irfan and Kashan first attempted to kidnap the brother of complainant at gunpoint, snatched his motorcycle and mobile phone, which they later returned upon apologizing at the police station and subsequently returned that night with armed accomplices to threaten the family and fire shots outside their home. Hence, F.I.R was lodged by the complainant.

3. After framing the charge against accused, the trial Court examined as many as evidence of six (06) witnesses and thereafter, statements of accused as required u/s 342 Cr.P.C. were recorded, wherein they denied the prosecution allegation and pleaded their innocence. However, neither they examined themselves on Oath nor produced any witness in their defence.

4. Thereafter, as stated above, after hearing the learned counsel for the parties, the learned trial Court acquitted the respondents/accused through impugned judgment dated 17.07.2023, hence this Criminal Acquittal Appeal.

5. Learned counsel representing the appellant/complainant at the very outset, submits that the impugned judgment is not sustainable

under the law as there was sufficient evidence available on record against the accused but the trial Court brushed aside the same, more particularly, the accused was acquitted of the charge without assigning any valid reason.

6. On the other hand, learned Deputy Prosecutor General duly assisted by learned counsel for the respondents, has supported the impugned judgment passed by learned trial Court by arguing that the appellant/complainant has failed to prove its case against the private respondents; that the private respondents have been falsely implicated in the present case; that trial Court has passed the impugned judgment after due appreciation of evidence on record; that the learned trial Court while rendering the acquittal judgment has attained all the aspects involved in this case.

7. I have heard the learned counsel for the appellant, learned counsel for the respondents and learned D.P.G for State and have perused the impugned judgment passed by the trial Court. During the course of arguments, learned counsel for the appellant could not show the specific part of the judgment wherein the learned trial Court has committed any gross illegality or irregularity. It is noteworthy that no motive of alleged incident is shown in the F.I.R as well as in the testimony of PWs Muhammad Arif and Shakeel Ahmed. The above circumstances, coupled with the suggestions put to the prosecution witnesses regarding the prior dispute between the parties, prima facie indicate suppression of the genesis and motive of the occurrence by the complainant. Moreover, despite the alleged occurrence having taken place in a public place where several persons had gathered and intervened, no independent witness was associated by the prosecution. Even the two Investigating Officers failed to record the statements of any independent persons or reflect in the case diaries under Section 172 Cr.P.C. any effort made in this regard. The allegation of an attempt to kidnap, being susceptible to easy fabrication, requires corroboration, which is conspicuously lacking in the present case. These material omissions and contradictions create serious doubt about the prosecution case, entitling the accused to the benefit of doubt and consequently to acquittal. Learned counsel for the appellant has also failed to produce any convincing evidence before the trial Court for conviction against private respondents.

8. I have also perused the impugned judgment and come to the conclusion that the learned trial Court has dealt with all aspect of the matter quite comprehensively in the light of all relevant laws dealing with the matter and the appellant in his appeal is unable to point out that the impugned judgment by any means suffers from any illegality or miscomprehension or non-appreciation of evidence by way of documents and evidence available on record. I am also not satisfied with any of the grounds agitated by appellant in the memo of appeal for indulgence of this Court in the matter. Therefore, I find that the impugned judgment passed by trial Court is perfect in law and facts and needs no interference by this Court.

9. As observed above, the respondents/accused have been acquitted by the competent Court of law therefore, under the law once an accused was acquitted by the competent Court of law after facing the agonies of the protracted trial then he would earn the presumption of double innocence which could not be disturbed by the appellate Court lightly. Resultantly, the instant Criminal Acquittal Appeal being devoid of merits is hereby **dismissed**.

JUDGE

****Hafiz Fahad****