

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Acquittal Appeal No.483 of 2025

(Riaz Ahmad v. Mst. Hajra Bibi & another)

BEFORE:

Justice Zafar Ahmed Rajput

Justice Muhammad Hasan (Akber)

Appellant : Riaz Ahmad s/o Manzoor Ahmed, through
Mr. Abdul Malik Advocate

Respondent No.1 : Mst. Hajra Bibi d/o Ghulam Muhammad

Respondent No.2 : The State

Date of hearing : 02.09.2025

Date of Judgment : 02.09.2025

JUDGMENT

MUHAMMAD HASAN (AKBER), J.- This CrI. Acquittal Appeal, under section 417(2) of Criminal Procedure Code, is directed against the Judgment, dated 03.07.2025, passed in Sessions Case No.2669/2021, arisen out of FIR No. 159/2020, registered under section 302/34, P.P.C. at Police Station Gulistan-e-Johar, Karachi whereby the learned Addl. Sessions Judge-V /MCTC, Karachi-East (**Trial Court**) acquitted the respondent No.1 of the charge by extending her benefit of doubt.

2. The State has not assailed the imputed Judgment, however, feeling aggrieved by such acquittal, the appellant/complainant has preferred this acquittal appeal. We have heard Mr. Abdul Malik Advocate for the Appellant, who has taken us through the impugned judgment as well as the depositions of the prosecution witnesses.

3. It reflects from the record that the younger brother of the appellant, namely, Siraj Ahmed was married in 2014 to respondent No.1 and he was residing with her. On 06.10.2019, the sister of the complainant brought Siraj Ahmed to complainant's house disclosing that he being severely ill was unable to talk; at 7:30 am, she took him to Al-Mustafa Hospital, where he was treated and then he was brought back to the complainant's house. After some time, his condition became worse and he was taken to another hospital, namely, Khatri Hospital from where, on the advice of doctors, he was shifted to Civil Hospital, where his necessary tests were conducted and then he was shifted to ENT ward. On 07.10.2019, he was shifted to SIUT where he remained under treatment. On 9.10.2019, complaint received call from Emergency Ward of SIUT informing him about the death

of his brother Siraj Ahmed. Thereafter, on 12.02.2020, appellant lodged the FIR, after an inordinate and unexplained delay of about four months, alleging therein that the deceased died due to administering of poison by his wife/ respondent No.1. It further reflects from record that, on 9.01.2021, the exhuming proceedings of the dead body of the deceased were carried out under the court's orders, whereafter postmortem was conducted. After investigation, the first investigation officer submitted his report under "A" class, due to insufficient evidence against the accused. The second investigation officer submitted charge-sheet in "C" class on the basis of post-mortem report conducted on 09.01.2021, after about 15 months of death of the deceased. Trial Court examined 14 witnesses including investigation officers.

4. The entire thrust of the arguments by learned counsel for the appellant was based on the medical report of the deceased. However, when confronted with the fact that not a single prosecution witness has alleged to have seen the administering of poison by the accused to the deceased, the learned counsel had no reply. In the present case, there is no eyewitness of the alleged offence. None of the MLOs, from multiple hospitals where the deceased was taken for treatment by the complainant, has reported that the deceased died due to poisoning. Even the MLOs examined by the prosecution did not depose in their evidence that cause of death of the deceased was poisoning. In their depositions, PW-13 Syed Zafar Ahmed Nizamuddin, the second I.O., has also admitted that he did not find any eyewitness of alleged administering of poison to deceased. All other material prosecution witnesses, including Gaman Khatoon (*the mother of the deceased*), Mansoor Ahmed (*father of the deceased*) Abdul Sattar (*maternal uncle of the deceased*), Ghulam Sarwar (*maternal uncle of the deceased*), and relative Huzoor Baksh have admitted in their cross examination that they did not see the accused administering any cold drink to deceased and that such fact was disclosed to them by the complainant.

5. After going through the impugned Judgment in the light of available record, we have found that the Trial Court has considered the evidence of all the prosecution witnesses and no case of nonreading or misreading of evidence has been made out. Learned counsel for appellant has failed to show us that the Trial Court in arriving at the conclusion of acquittal of the respondent No.1 has committed any illegality or irregularity. We are,

therefore, of the considered view that the impugned finding is not open to any exception, which is in consonance with the principles of justice, and the same neither suffer from any miscarriage of justice nor warrant any interference of this Court under its appellate jurisdiction.

6. The well settled principle of law in acquittal appeals as held in the leading Judgment on the subject in the case of Abdul Khaliq¹ is that the parameters for an appeal against acquittal to succeed are much narrower than in the case of an appeal against conviction and such an acquittal should not be interjected until the findings are found to be perverse, arbitrary, foolish, artificial, speculative and ridiculous. Needless to observe that the scope and criteria for interference in an appeal against acquittal is much narrow and limited as compared to a conviction appeal because in an acquittal, the presumption of innocence is significantly added whereas with the acquittal, the accused person acquires a double presumption of innocence, hence a very heavy burden lies upon the prosecution for warranting interference against such judgment of acquittal. The findings of acquittal cannot be reversed merely because a different conclusion from that of the Court acquitting the accused is also possible. Such principles have been consistently followed by the superior Courts of Pakistan in large number of cases.²

7. Applying the above principles to the present case, no case has been made out warranting interference by this Court with the impugned judgment of acquittal.

8. For what has been discussed above, we do not find any substance in the acquittal appeal, which stands dismissed in *limine*. These are the reasons for our short order dated 02.09.2025 for dismissal of this appeal.

JUDGE

JUDGE

1. *The State v. Abdul Khaliq and others (PLD 2011 SC 554); Ghulam Sikandar v. Mamrez Khan PLD 1985 SC 11; Tariq Pervez v. The State (1995 SCMR 1345)*

2. *Bashir Ahmed v. Fida Hussain and 3 others (2010 SCMR 495)*