

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Acq. Appeal No.S-63 of 2024

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE.
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1. For orders O/ objection at flag-A.
2. For hearing of M.A. No. 2524/24.
3. For hearing of main case.

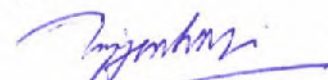
28.02.2025

Mr. Amanullah G. Malik, Advocate for appellant.

Mr. Abdul Sattar Thaheem, Advocate for respondents No.1 to 6.

Syed Sardar Ali Shah, Addl.P.G Sindh for State.

Heard counsel for parties. Reserved for orders/judgment.


JUDGE

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Acquittal Appeal No.S-63 of 2024

Appellant: Hassan Mehmood through Mr. Amanullah G. Malik, Advocate.

Respondents No.1to6: Through Mr. Abdul Sattar Thaheem, Advocate.

Respondent No.7: The State through Syed Sardar Ali Shah Additional. P.G. Sindh.

Date of hearing: 28.02.2025.

Date of Judgment: 28.04.2025.

J U D G M E N T

Riazat Ali Sahar, J. Appellant/complainant Hassan Mehmood being aggrieved and dissatisfied with the judgment dated 16.04.2024, passed by the learned Judicial Magistrate-II, (MTMC) Ghotki in Criminal Case No.375/2021 arising out of the FIR No.293/2021 for offence under sections 337-A (i), F (i), F (iii), F (v), L (ii), 114, 506/2, 147, 148, 149 PPC, registered at PS Daharki, whereby the respondents No.1 to 6 along with other co-accused namely, Arshad Ali, Wahid Bux, Muhammad Bux and Riaz Ali, were acquitted from the charge.

2. The allegations as leveled by the complainant are that on 20.09.2021 at about 2:30 p.m., complainant Hassan Mehmood, along with his father Ghulam Rasool and brother Muhammad Irfan, was present outside their house when twelve accused persons duly armed with lathis arrived and confronted them over a prior dispute regarding seating at the complainant's shop. Upon instigation by accused Wahid Bux, the accused attacked the complainant and his family: accused Allah Bux, Mansoor, Sher Ali, and Suhbat inflicted multiple lathi blows on the complainant, causing injuries to his head, hand, and arm; accused Sher Ali, Suhbat, and Mubarak Ali assaulted Muhammad Irfan, causing injuries to his legs, ear, and

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thumb; and accused Suhbat Ali, Riaz, and Arshad attacked Ghulam Rasool, striking his skull, forehead, and shoulder. After the complainant party fell to the ground, the remaining accused joined in by kicking and punching them, and issued threats of murder. The assailants fled when other villagers arrived. The victims proceeded to the police station, obtained a letter for medical treatment, and received treatment at Taluka Hospital Daharki. After securing medical certificates, the complainant filed a petition before the Court, and upon obtaining orders, lodged the present FIR at P.S. Daharki.


3. After usual investigation, the case was challaned and after-dressed trial; through impugned judgment, the respondents No.1 to 6/accused were acquitted of the charge by the learned trial Court as well as other co-accused namely, Wahid Bux, Muhammad Bux, Arshad Ali and Riaz Ali, for whom the complainant also raised no objection for their acquittal before the learned trial Court.

4. Learned counsel for the appellant has contended that the trial Court failed to properly evaluate the evidence presented by the prosecution. The complainant and injured witnesses consistently testified regarding the assault, and their statements were corroborated by medical evidence. This should have been sufficient for a conviction. He also contended that the delay in lodging the FIR (20 days) was adequately explained. The complainant and his witnesses were first concerned with medical treatment, and there was no *mala fide* intention behind the delay. Therefore, the delay should not have been used as a ground for acquittal. He further contended that the defense presented by the accused was full of contradictions, particularly regarding the nature and extent of the injuries sustained by the complainant and his witnesses. The trial Court should have considered these inconsistencies as discouraging the defense case and supporting the prosecution's version. He further contended that the role of each accused in the crime was clearly identified by the complainant and the injured witnesses. Despite this clear identification, the trial Court failed to convict the accused,

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which was an error in law. He also contended that the absence of independent witnesses should not have affected the reliability of the complainant's and injured witnesses' evidence, as their statements were consistent and supported by medical records. This made their testimony credible and sufficient for conviction. He further contended that the medical records substantiated the injuries described by the complainant and his witnesses, reinforcing the fact that the assault took place and that the accused were responsible for inflicting the injuries. He also contended that the accused failed to provide any valid defense or alibi to refute the prosecution's case. In the absence of any substantial defense, the trial Court should have convicted the accused on the basis of available evidence. He further contended that legal precedents support the conviction in cases where the prosecution's evidence is consistent and reliable, even in the absence of independent witnesses, as in the present case. He finally contended that the appellant has presented a strong case, and therefore, he prayed that the acquittal judgment be set aside and the accused be convicted based on the evidence at hand.

5. On the other hand, learned counsel for the respondents No.1 to 6 contended that there are several material contradictions and discrepancies in the prosecution evidence. In particular, it was contended that the unexplained delay in filing the FIR despite the short distance between the scene and the police station casts serious doubt on the reliability of the complainant's narrative. There are marked inconsistencies in the testimonies regarding the time of occurrence and the sequence of events; specifically, conflicting statements about the timing of the alleged assault and the subsequent arrival of the injured at the police station. The physical injuries described in the complainant's evidence, including discrepancies in the number and nature of injuries, were not independently corroborated as demonstrated by differences between the medical reports and the examination records. The complainant's own application, along with those of his injured witnesses (Ghulam Rasool and Muhammad Irfan), indicating no objection to the



acquittal of certain accused, further weakens the prosecution's version. Lastly, learned counsel for the respondents/accused prayed for dismissal of instant criminal acquittal appeal.

6. Learned A.P.G. Sindh has supported the impugned judgment.

7. Heard and perused.

8. Upon a careful perusal of the record, it appears that a formal charge was framed against the accused, and as many as six prosecution witnesses were examined during the course of the trial. The learned trial Court appropriately framed the legal point for determination—whether the accused committed the alleged offence—and proceeded to discuss the matter in detail in the impugned judgment. However, this Court has observed certain material discrepancies and infirmities in the prosecution's case that go to the root of the matter and cast serious doubt on the reliability of the prosecution's version. The FIR was lodged on 10.10.2021, nearly twenty (20) days after the occurrence of the alleged incident dated 20.09.2021. Given that the place of incident is situated at a distance of approximately two kilometers from the concerned police station, such an inordinate and unexplained delay in registration of the FIR raises substantial suspicion regarding the authenticity and motivation of the complaint. Additionally, there are conflicting accounts in the prosecution evidence regarding the time of occurrence and the subsequent arrival of the complainant and witnesses at the police station. While certain witnesses deposed that they reached within 15–20 minutes, others offered conflicting versions, thereby weakening the prosecution's case.

9. Further, discrepancies exist between the complainant's version of the incident and the medical evidence on record, particularly concerning the nature and location of the injuries sustained by Ghulam Rasool—for instance, head and shoulder injuries mentioned by the complainant are not reflected consistently in the medico-legal certificate. The identification of the accused by



Saeed v. The State (2008 P.Cr.L.J. 1752), *Ghulam Murtaza v. The State* (2010 P.Cr.L.J. 461), and *Mohammad Mansha v. The State* (2018 SCMR 772).

11. It is imperative to reiterate that an appeal against acquittal stands on a different legal footing than an appeal against conviction. The approach to such appeals is necessarily cautious and circumscribed owing to the doctrine of “double presumption of innocence” attached to an acquittal. Once an accused has been acquitted by a competent court of law, the presumption of innocence is not only reaffirmed but further strengthened. The appellate court must therefore exercise restraint, and interference is justified only where the acquittal is found to be manifestly perverse, capricious, arbitrary, or the result of gross misreading or non-reading of material evidence, thereby leading to a miscarriage of justice. It is equally well-settled that mere procedural irregularities or disregard of technicalities—absent demonstrable prejudice or injustice—do not constitute sufficient ground to overturn an acquittal. The findings of the trial court, which enjoys the benefit of observing the demeanour of witnesses firsthand, are to be accorded considerable weight and deference. This principle has been consistently upheld by the Honourable Supreme Court in *Muhammad Ijaz Ahmad v. Fahim Afzal* (1998 SCMR 1281) and *Jehangir v. Aminullah and others* (2010 SCMR 491), wherein it was held that an acquittal cannot be reversed merely on a re-appraisal of evidence unless it is shown to be manifestly erroneous or based on no evidence. Furthermore, it is the cardinal rule of criminal jurisprudence that if there exists any reasonable doubt regarding the guilt of the accused, such doubt must be resolved in favour of the accused. The appellate court cannot supply missing links in the prosecution’s case or attempt to cure evidentiary deficiencies. Doing so would amount to violating the fundamental rights of the accused and undermine the principles of a fair trial and due process of law.

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12. It suffices to observe that the impugned judgment of acquittal rendered by the learned trial Court is founded upon a cogent and well-reasoned appraisal of the evidence, free from any glaring improbabilities, material infirmities, or legal misdirection. The findings are rooted in a logical assessment of the facts and do not reflect perversity or arbitrariness warranting appellate interference. The appellant has failed to demonstrate any compelling or exceptional circumstances—such as a gross miscarriage of justice or a manifest misreading of material evidence—that would justify the reversal of the acquittal. In the absence of such grounds, this Court finds no reason to disturb the findings of the learned trial Court, which are entitled to deference, particularly in light of the presumption of double innocence that attaches to an acquitted accused.

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13. This is a Criminal Acquittal Appeal, and it is essential to recognize the doctrine of double innocence that applies in such proceedings. The appellant has failed to demonstrate any extraordinary circumstances or errors in the impugned judgment that would justify interference by this Court. Therefore, the instant Criminal Acquittal Appeal is **dismissed**.

[Signature]
JUDGE

Dismissed by u.c.

[Signature]

20/5/25.

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