

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Acquittal Appeal No. S-06 of 2021

Ali Dino Khan Rattar.....Appellant

Versus.

Imdad Rattar and others..... Respondents

- 1.For orders on office objection.
- 2.For Hearing of Main Case.

Mr. Nadir Ali Lakho Advocate for Appellant.

Mr. Zulfiqar Ali Jatoy, Additional P.G for the State.

Date of hearing: 01-02-2021

Date of Judgment: 01-02-2021

J U D G M E N T

Aftab Ahmed Gorar J. Instant Crl. Acquittal Appeal is directed against the order dated 10.12.2020, delivered by learned 1st Civil Judge & Judicial Magistrate, Mirwah in Criminal Case No.169 of 2019, culminating out of Crime No.152 of 2019, registered with P.S, Faiz Ganj for offences under Sections 506/2, 403, 504 & 34 PPC, whereby respondents / accused were acquitted of the charge in terms of section 249-A Cr.P.C.

2. Allegations against the respondents/accused are that they used to remain annoyed with the complainant. On 18.10.2019 at about 0900 hours, at Mirwah Pull Karondi complainant was busy in chit-chatting with PWs Balam Khan and Farooque, when private respondents / accused came on motorcycle. Accused Imdad and Asif were having lathies and Kashif was armed with pistol. Accused Asif and Imdad called bad names and caused lathi blows to complainant, who raised cries on which other persons came and tried to rescue him. On seeing

people coming there, accused Kashif aimed his pistol upon complainant and issued threats that he would not be spared next time. After that complainant found Rs. 22,000/- available in his pocket were missing. Consequently, above FIR was lodged.

3. Charge was framed against the respondent, to which accused pleaded not guilty and claimed trial. Thereafter, matter was fixed for evidence, but since the prosecution failed to procure the attendance of PWs since long time, therefore, learned trial Court while taking suo moto notice acquitted the respondents / accused in terms of Section 249-A Cr.P.C by the order, which is impugned in this Crl. Acquittal Appeal.

4. Learned counsel appearing on behalf of appellant argued that there was sufficient evidence connecting the private respondents / accused with the commission of offence, but the learned trial Court illegally acquitted them of the charge; that the trial Court has failed to take into consideration that the offence is of heinous nature; that respondents have failed to create any ground that charge was groundless, but even then the trial court illegally, unlawfully and without any justifiable reason acquitted them of the charge and while acquitting the respondents, the trial Court has failed to record any cogent reason.

5. On the other hand, learned Additional P.G supported the impugned acquittal order.

6. I have considered the arguments advanced by learned counsel for the appellant as well as learned APG for the State. Under section

249-A CrPC, the Magistrate has been given the powers of acquitting the accused at any stage of the case, if after hearing prosecutor and accused and for the reasons to be recorded, he considers that the charge against accused was groundless, or there was no probability of his conviction for any offence. In this respect, I am fortified by the case of Tabish Gauhar v. The State **(2016 PCrLJ 1398)**.

7. In this case, charge was framed on 29.11.2019 and from the date of framing of charge, the case was being adjourned for more than 31 times, but not a single witness was examined by the prosecution though coercive measures for procuring the attendance of prosecution witnesses were taken by repeatedly issuing the process including NBWs against the prosecution witnesses. Therefore, learned trial Court was justified in acquitting the accused under Section 249-A Cr.PC.

8. In view of above discussions, I am of the considered view that no case for interference in the impugned order is made out, therefore, instant Crl. Acquittal Appeal being meritless stands dismissed.

JUDGE