

IN THE HIGH COURT OF SINDH, BENCH AT SUKKURCriminal Acquittal Appeal No.S- 112 of 2023

Appellant/complainant: Qazi Ali Gohar son of Qazi Ghulam Rasool bycaste Sahito , R/O near Excise Mohalla Sahita, permanent R/O village Abechi P.O Matiani Abechi, Taluka and District Naushahro Feroze.

Through Mr. Khan Muhammad Sangi, advocate.

Private respondent : Not on notice.

Date of hearing : 16-10-2023.

Date of decision : 16-10-2023.

JUDGMENT

IRSHAD ALI SHAH, J.- It is the case of the prosecution that the private respondent purchased the wheat from the appellant and then issued a cheque in his favour which was bounced by the concerned Bank, when it was presented there for encashment, for that he was booked the reported upon by the police. On conclusion of trial, he was acquitted by IInd Judicial Magistrate/MTMC, Naushahro Feroze vide judgment dated 26-09-2023, which the appellant has impugned before this Court by preferring the instant Crl. Acquittal Appeal.

2. It is contended by learned counsel for the appellant that the learned trial Magistrate has recorded acquittal of the private respondent on the basis of improper assessment of evidence; therefore his acquittal is to be examined by this Court.

3. Heard arguments and perused the record.

4. The FIR of the incident has been lodged with delay of about six months; such delay having not been explained plausibly could not be over looked. The parties are appearing to be disputed over settlement of account. In these

circumstances, learned trial Magistrate was right to record acquittal of the private respondent by way of impugned judgment; which is not found to be arbitrary or cursory to be interfered with by this Court.

5. In case of *State and others vs. Abdul Khaliq and others* (PLD 2011 SC-554), it has been held by the Apex Court 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. 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 or wholly artificial or a shocking conclusion has been drawn. Judgment of acquittal 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 reappraisal 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”.

6. In view of the facts and reasons discussed above, instant criminal acquittal appeal fails and it is dismissed in limine.

JUDGE

