

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS.**

Criminal Acquittal Appeal No.S-18 of 2024

Appellant/Complainant : Suleman son of Muhammad Ramzan,
Through Mr. Ghulamullah Chang, Advocate.

The State : Through Mr. Ghulam Abbas Dalwani, D.P.G.

Respondents : Abdul Razzaque & others through Mr. Afzal
Karim Virk.

Date of Hearing : 27.08.2025

Date of decision : 27.08.2025

J U D G M E N T

Amjad Ali Sahito, J.- By this judgment, I intend to dispose of Criminal Acquittal Appeal No.S-18 of 2024, against the impugned judgment dated 29.06.2021, passed by learned Additional Sessions Judge-I, Tharparkar At Mithi in Criminal Appeal No.06 of 2020 (Re. Abdul Razzaque & others v. The State) whereby the respondents namely Abdul Razzaque, Ghulam Hyder, Zahid, Ghulam Muhammad, Siddique and Rafique all by caste Rahimoon were acquitted, which the appellant/complainant has impugned the Judgment before this Court against the above named respondents by way of filing instant Criminal Acquittal Appeal.

2. The facts of the prosecution case are that on 10-07-2019 complainant was present in his house, at 1750 hours, he received information that accused Abdul Razzaque and others are cutting Devi trees from his survey land of Khari inside and outside of hedge wall, on such information he along with his father went at 1800 hours and saw each accused namely 01. Abdul Razzaque Slo Abdul Raheem, 02. Ghulam Hyder S/o Muhammad Khan, 03. Zahid S/o Abdul Razzaque. 04. Ghulam Muhammad S/o Muhammad Khan, 05. Siddique S/o Ghulam Hyder, 06. Rafique S/o Muhammad Bachal and 07. Mushtaque S/o Bashir and two unknown persons, all having hatchets in their hands, they were cutting tress to whom complainant party restrained them from cutting the Devi trees from their land and reserved trees surrounding their land. On such, accused Abdul Razzaque hit his hatchet to

Muhammad Ramzan on left side of his head, accused Zahid also beaten to father of complainant, thereafter, all above named accused persons beaten to complainant and his father, then he and his father made cries which attracted to each namely 01. Muhammad Khan S/o Muhammad Ramzan, who is brother of complainant, 02. Abdul Rehman S/o Muhammad Khan, 03. Abdul Azeem S/o Muhammad Khan, 04. Abdul Wahab S/o Noor Muhammad and 05. Muhammad Siddique S/o Muhammad Ramzan came there for rescuing to complainant and his father, who were standing near the water well. All above named accused also beaten to above name injured, due to which complainant and PWs/ Injured fell down and accused went away by using abusive language to their homes. On completion of investigation charge sheet was submitted before the competent court of law showing all the accused persons on bail.

3. The necessary papers were supplied to the appellants/accused under receipt at Ex.1 and formal charge was framed against them at Ex.2, their such pleas were recorded at Ex.2/A to 2/G in which appellants/accused pleaded not guilty and claimed for trial.

4. Prosecution in order to prove its charge against the accused persons/appellants has examined his witnesses and closed side. The statements of accused persons were recorded under section 342 Cr.P.C wherein they denied allegations and stated that, they are innocent and falsely implicated, however neither they examined themselves on oath nor they did lead the defence evidence

5. Per learned counsel for the appellant/complainant sufficient record is available against the respondents and the learned Magistrate has convicted the respondents/accused, but the learned Additional Sessions Judge-I had acquitted the respondents without considering the medical evidence which is supporting the ocular evidence and respondents/accused caused serious injuries to the injured persons. Learned counsel further argued that the respondents/accused persons are not entitled for acquittal and prayed that the respondents/accused may be convicted and judgment of the appellate court may be set-aside.

6. On the other hand learned D.P.G and learned counsel for the respondents/accused have supported the impugned Judgment and state that no specific role has been assigned to all the respondents/accused and motive of the offence is not shown in the FIR. They have further argued that all the PWs are close relatives to each other and there is material contradiction in

ocular evidence of PWs and submit that the instant criminal acquittal appeal may be dismissed.

7. I have heard learned counsel for the appellant/complainant, learned counsel for the respondents/accused and learned D.P.G for the State and have perused the record.

8. From a perusal of the record, it emerges that no specific role has been attributed to any of the accused. The motive for the offence has not been mentioned in the FIR, which is a key ingredient in establishing the cause of any incident. Furthermore, PW Muhammad Ramzan, in his statement under Section 161 Cr.P.C., stated that accused Abdul Razzaque struck Sulleman with a hatchet, whereas the complainant Sulleman, in his FIR and deposition, stated that Abdul Razzaque struck Muhammad Ramzan. None of the prosecution witnesses (PWs) have assigned specific roles to the accused regarding who caused which injuries. Additionally, the complainant did not mention the injury memo during his testimony. There is also a contradiction in the record regarding the injuries sustained by the victims, as inconsistencies appear between the oral evidence, the injury memo, and the medical certificate. While the alleged offence is stated to have occurred on Khari land claimed by the complainant party, no documentary evidence has been brought on record to establish their ownership of the said land where the alleged incident took place. The learned appellate court, after properly appreciating the evidence, delivered its judgment and acquitted the respondents/accused persons.

9. The evidence presented by the appellant/complainant and his witnesses is inconsistent and contradictory, casting serious doubt on the prosecution's version. The accused are, therefore, entitled to the benefit of the doubt. In such circumstances, the possibility of false implication of the respondents/accused cannot be ruled out.

10. It is a well-settled principle of law that a criminal case is to be decided based on the totality of impressions gathered from the circumstances of the case and not on the narrow ground of cross-examination or otherwise of a witness on a particular fact stated by him. A similar view had been expressed by the Honourable Supreme Court of Pakistan in the case of State v. Rab Nawaz and another (PLD 1974 SC 87) wherein Honourable Supreme Court has observed that a criminal case is to be decided based on the totality of circumstances and not based on a single element.

11. It is noteworthy that in the impugned judgment the learned trial Judge has pointed out some other material contradictions, which are sufficient to declare that the prosecution could not establish the case against the respondent/accused beyond reasonable doubt and where a single circumstance creating reasonable doubt in the prudent mind about the guilt of the accused, then accused will be entitled to the benefit not as a matter of grace and concession but as a matter of right. In this regard, reliance is placed on the cases of Tariq Pervaiz v. The State [1995 SCMR 1345] Muhammad Akram v. The State [2009 SCMR 230] and Lal Bux alias Lal v. the State (2023 YLR 321) (authored by Zulfiqar Ahmed Khan J.)

12. It is an important to note that an appeal against acquittal has distinctive features and the approach to deal with the appeal against conviction is distinguishable from appeal against acquittal, as presumption of double innocence is attached in the latter case. Reliance is placed on the case of 'Inayatullah Butt v. Muhammad Javed and 2 others' [PLD 2003 SC 562]. Until and unless the judgment of the trial Court is perverse, completely illegal and on perusal of evidence no other decision can be given except that the accused is guilty or there has been complete misreading of evidence leading to miscarriage of justice, the Court will not exercise jurisdiction under section 417, Cr.P.C.

13. It is well settled by now that the scope of appeal against acquittal is very narrow and there is a double presumption of innocence and that the Courts generally do not interfere with the same unless they find the reasoning in the impugned judgment to be perverse, arbitrary, foolish, artificial, speculative and ridiculous as was held by the Supreme Court in the case of State v. Abdul Khaliq and others (PLD 2011 SC 554).

14. The learned counsel for the appellant/complainant has miserably failed to establish the guilt against the respondents/accused beyond any shadow of doubt, in these circumstances, the learned appellate Court has rightly evaluated the evidence while recording acquittal of the respondents. It is well settled principle of law that in criminal cases every accused is innocent unless proved guilty and upon acquittal by a Court of competent jurisdiction such presumption doubles. Very strong and cogent reasons are required to dislodge such presumption. The reasons given by the learned appellate Court in its judgment have not been found by us to be arbitrary, fanciful or capricious, requiring any interference by this Court.

Consequently, the instant appeal filed by the appellant/complainant merits no consideration, which is dismissed accordingly.

JUDGE

****Adnan Ashraf Nizamani****

-