

IN THE HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Acquittal Appeal No.D-39 of 2024

Present: -

Mr. Justice Amjad Ali Sahito

Mr. Justice Jan Ali Junejo.

Appellant: The State, through P.G Sindh, Karachi,
Through Mr. Shahzado Saleem, Additional P.G.

Respondents: Siraj and 05 others.

Date of hearing: 01.09.2025.

Date of judgment: 01.09.2025.

J U D G M E N T

AMJAD ALI SAHITO, J.- Being aggrieved and dissatisfied with the judgment dated 29.01.2022, passed by the learned Anti-Terrorism Court, Mirpurkhas Division @ Mirpurkhas in Special Case No.07/2021 (The State Vs. Siraj and others) bearing Cr. No.15/2021 for offences under sections 324, 353, 147, 148 and 149 P.P.C r/w section 6/7 Ata of Anti-Terrorism Act, 1997, registered at PS Taluka Mirpurkhas, whereby the respondents were acquitted from the charge.

2. The FIR of the case was lodged on 03.02.2021, complainant Inspector Rasool Bux Thaheem lodged FIR that he accompanied with his subordinate staff namely ASI Muhammad Hussain, HC Muhammad Ilyas, PC Ghulam Qadir and PC Muhammad Qasim left PS vide departure entry No.5 at about 0910 hours in police mobile driven by driver PC Imdad Ali duly armed with government ammunition for the investigation of case Cr. No.14/2021 of PS Taluka Mirpurkhas under sections 324, 337-H(ii), 504, 147, 148 and 149 PPC r/w section 6/7 ATA, 1997 so also to inspect the place of incident alongwith complainant Muhammad Ismail and PWs and when at about 1000 hours they reached at the land of complainant near the sugarcane crop, police party saw 10/11 persons duly armed with weapons were

standing adjacent to the sugarcane crop. They stopped the police mobile and got down from the same, on which accused persons started straight firing upon the police with intention to kill and police personals took position and started aerial firing in their defence and tactfully arrested two persons alongwith weapons while rest of the accused persons made their escape good by taking benefit of sugarcane crop. Police recovered one Rifle from the possession of accused Siraj one black color bag from the left side his shoulder and found 35 live bullets of 3x3 bore and three currency notes of Rs.100/- each total Rs.300/- from his side pocket. Police also recovered one repeater from accused Talib Hussain, once black color bag from the left side of his shoulder and also found 25 live cartridges of red color of 12 bore and five currency notes of Rs.50/- each total Rs.250/- from his side pocket. Both the arrested accused further disclosed that their weapons are unlicensed. Police and private PWs identified escaped accused persons as Ali Asghar, Saleem, Ubaid, Sobho Khan alias Ghulam Muhammad all sons of Bagh Ali Rind and 05 unknown persons who would be identified if seen again. Thereafter, arrested accused and case property were brought at PS Taluka Mirpurkhas where SHO Rasool Bux lodged FIR against the accused persons. SHO Rasool Bux also lodged another FIR No.16/2021 against accused Siraj and FIR No.17/2021 against accused Talib Hussain regarding recovery of unlicensed weapons from the possession of the accused persons.

3. The learned trial after observing all formalities and recording evidence of the complainant party as well as statement of accused, acquitted the respondents through the impugned judgment.

4. Learned A.P.G submits that though all the witnesses have supported the case but the learned trial Court has erroneously acquitted the respondents without appreciating their corroborative evidence. He prayed for setting aside the impugned judgment so also conviction and sentence to the respondents.

5. Heard and perused.

6. It is a matter of record that though the respondents/accused were shown at the place of incident to be armed with weapons and

made straight firing upon the police with intention to kill and deterred them from performing their official duty but no one received single injury during such incident, therefore, the learned Trial Court has rightly exonerated them from the charge of the offence. It is not out of context to make here necessary clarification that an appeal against acquittal has distinctive features and the approach to the appeal against conviction because the presumption of double innocence is attached in the former case. We have also carefully perused the record of the case and feel no hesitation to observe that impugned judgment is speaking one and elaborate which does not suffer from any illegality, gross irregularity, infirmity, hence, it does not require any interference by this Court. It is a well-settled principle of law that for creating a shadow of a doubt, it doesn't need to be many circumstances. If a single circumstance creates a reasonable doubt in the prudent mind, then its benefit is to be extended in favour of the accused not as a matter of grace or concession, but as a matter of right. The reliance is placed on the case of ***Muhammad Masha v. The State (2018 SCMR-772)***, wherein the Hon'ble Supreme Court of Pakistan has held that:

4.--- Needles to mention that while giving the benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in a prudent mind about the guilt of accused, then accused would be entitled to the benefit of such doubt, not as a matter of grace and concession but as a matter of right. It is based on the maxim, "it is better that ten guilt persons be acquitted rather than one innocent person be convicted". Reliance in this behalf can be made upon the cases of Tariq Pervez v. The State (1995 SCMR-1345), Ghulam Qadir and 2 others v. The State (2008 SCMR-1221), Muhammad Akram v. The State (2009 SCMR-230) and Muhammad Zaman v. The State (2014 SCMR-749).

7. It is also a well-settled law that after earning the acquittal from the trial Court, the double presumption of innocence is earned by the accused. The Court sitting in appeal against acquittal always remains slow in reversing the judgment of acquittal, unless it is found to be arbitrary, fanciful and capricious on the face of it or is the result of bare misreading or

non-reading of any material evidence. In the case of ***Muhammad Mansha Kousar v. Muhammad Asghar and others*** (2003 SCMR 477), the Honourable Apex Court observed as under:-

“that the law relating to a reappraisal of evidence in appeals against acquittal is stringent in that the presumption of innocence is doubled and multiplied after a finding of not guilty recorded by a competent court of law. Such findings cannot be reversed, upset and disturbed except when the judgment is found to be perverse, shocking, alarming, artificial and suffering from error of jurisdiction or misreading, non-reading of evidence... Law requires that a judgment of acquittal shall not be disturbed even though second opinion may be reasonably possible”.

8. Similar view was reiterated by the Honourable Apex Court in the case of ***Muhammad Tasaweer v. Zulkarnain and 2 others*** (PLD 2009 SC 53), in the following words:-

“Needless to emphasize that when an accused person is acquitted from the charge by a Court of competent jurisdiction then, the double presumption of innocence is attached to its order, with which the superior courts do not interfere unless the impugned order is arbitrary, capricious, fanciful and against the record.”

9. The upshot of the above discussion is that the impugned judgment is well-founded and well-reasoned, based on proper appraisal of the evidence and thus it calls for no interference by this Court. Even otherwise, it is re-iterated that the acquittal recorded by the Court of competent jurisdiction, would not be disturbed until there is any misreading or non-reading of the evidence resulting in miscarriage of justice, which, as elaborated above, has not been noticed here. Consequently, the instant Criminal Acquittal Appeal is **dismissed** alongwith pending application.

JUDGE

JUDGE

Faisal