

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,**  
**MIRPURKHAS**  
**CRIMINAL ACQUITTAL APPEAL No.S-167 of 2024**

**Appellant/ Complainant:** Niaz Ahmed s/o Ghulam Muhammad Wassan  
Through Mr. Muhammad Nisar, Advocate.

**Respondents/ accused:** 1. Ali Nawaz s/o Gajjan Wassan.  
2. Rajab Ali alias Rajoo s/o Kehar Lander.

**The State:** Through Mr. Ghulam Abbas Dalwani, DPG.

**Date of hearing:** 11.09.2025

**Date of judgment:** 11.09.2025

**J U D G M E N T**

**Amjad Ali Sahito, J.-** Through the captioned Criminal Acquittal Appeal, appellant/ complainant Niaz Ahmed has called in question judgment dated 04-11-2024, passed by learned Additional Sessions Judge-II, Sanghar, in Sessions Case No. 29/ 2024 Re. *The State v. Ali Nawaz and another* arising out of F.I.R No. 209 of 2023 for offence under sections 336,506(ii),504,34 PPC registered at Police Station Sanghar, whereby respondents named above have been acquitted under section 265-H(1) Cr.P.C.

2. Briefly the facts of the prosecution case are that on 20-08-2023 at 7:00 p.m., complainant Niaz Ahmed Wassan lodged instant F.I.R at PS Sanghar stating therein that a dispute over agricultural land was ongoing with accused Ali Nawaz Wassan. On July 20, 2023, he, his brother Muhammad Zaman Wassan and his son Adil Niaz visited their land situated in Deh Yaroo Hingoro and then were returning back to Sanghar City on two motorcycles. Around 9:20 a.m when they reached at Ayoub Lander's shop near Talib-ul-Moula Colony on Toori Road, where saw that Ali Nawaz Wassan and Rajab Ali @ Rajoo Lander were standing; they signaled to stop the motorcycle, as soon as complainant stopped the motorcycle, Ali Nawaz caused fist blow on his face, which hit on his right eye, due to which he fell down on the ground. Then both Ali Nawaz and Rajab Ali assaulted

upon him and caused fists and kicks blows to him. His brother Muhammad Zaman, and son Adil Niaz, raised cries for help, whereupon both accused fled away on a motorcycle while issuing threats of murder and hurling abuses. Then Muhammad Zaman and Adil Niaz took the complainant to the Police Station and, after receiving a referral letter from the police, brought him at Civil Hospital Sanghar. After receiving medical treatment and Final Medico-Legal Certificate, complainant came at the police station and lodged such FIR.

3. After completion of the usual investigation, the I.O submitted a police report under section 173 Cr.P.C before the trial court. After supplying copies of necessary documents charge was framed against the respondents/ accused, to which they pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined as many as six (06) witnesses, who produced numerous documents and thereafter, the prosecution closed its side. Thereafter, statements of the respondents/ accused under section 342 Cr.P.C were recorded wherein they denied the allegations being false and claimed their innocence. However, they did not examine themselves on oath as required under section 340(2) Cr.P.C nor lead evidence in their defence. After hearing learned counsel for both parties, learned trial Court acquitted the respondents/ accused through impugned judgment, hence this Criminal Acquittal Appeal.

5. The appellant/complainant and his learned counsel are called absent and no intimation has been received on their behalf. However, I have carefully examined the record, which reveals that on the alleged date of incident, i.e., 20.07.2023, the injured Niaz Ahmed Wassan was brought to Police Station Sanghar at about 0930 hours by Adil Niaz and Zaman Wassan. His injuries were inspected by the duty officer, HC Gul Muhammad, under a memo, whereupon a letter for medical treatment was issued and an entry bearing No.08 was made in the roznamcha at 0945 hours. It is noteworthy that neither the name of any accused was mentioned in the initial entry No.08 (Ex.10/B), nor did the complainant party

report any details of the incident as subsequently alleged in the FIR.

6. Prosecution Witness No.3, Adil Niaz, the son of the complainant/injured, admitted during cross-examination that at the time of inspection of the injuries, the complainant did not disclose any facts regarding the incident nor the names of the alleged culprits. Likewise, PW-4 HC Gul Muhammad (Duty Officer) admitted in his cross-examination that when the complainant/injured arrived at Police Station Sanghar, he did not provide any details or identify the perpetrators of the alleged occurrence.

7. In these circumstances, the subsequent nomination of the accused persons in the FIR, which was registered after a considerable and unexplained delay of approximately one month, cannot be accepted without reservation. The record indicates that although the incident is alleged to have taken place on 20.07.2023 and the complainant purportedly identified the accused on the same day, the FIR was lodged only on 20.08.2023, with no plausible explanation for such an inordinate delay. This unexplained delay casts serious doubt upon the veracity and genuineness of the prosecution's version. The said delay is of significant importance, and the possibility that the accused were implicated after due deliberation and consultation, particularly in view of the admitted dispute over landed property with accused Ali Nawaz, cannot be ruled out.

8. According to the prosecution's case, respondent/accused Ali Nawaz allegedly inflicted a fist blow upon the complainant's right eye and thereafter both respondents/accused purportedly subjected the complainant to kicks and fist blows. However, the medical evidence does not substantiate these allegations. The Medical Superintendent, Taluka Hospital Tando Adam, Dr. Syed Fazal Muhammad Shah, in his deposition, stated that the injured person was found to have only a single injury on his right eye. Moreover, the Duty Officer, HC Gul Muhammad, during cross-examination, deposed that apart from some swelling around the

complainant's eyes, no other visible signs of physical violence were observed on his body.

9. It further appears that the alleged incident took place in a street surrounded by residential houses and commercial shops, situated in proximity to the shop of one Ayoub Lander. Upon perusal of the case record, it is evident that the Investigating Officer recorded the statement of the said shopkeeper Ayoub Lander under Section 161, Cr.P.C., as part of the investigation. Notwithstanding his apparent significance as an independent witness, the prosecution failed to produce Ayoub Lander before the Court for examination. In his statement recorded under Section 161, Cr.P.C., Ayoub categorically stated that the complainant's eye injury was caused by a buffalo near his shop. This statement finds corroboration in the injury memo (Ex.6/D), which bears the signature of PW Adil Niaz, the complainant's son, who, during his cross-examination, conceded that "it is a fact that it is mentioned in the mashirnama that as per verbatim of the complainant, he fell down at the spot due to a buffalo attack." Furthermore, PW/Investigating Officer SIP Wali Muhammad Bhanbhro, in his cross-examination, admitted that his investigation revealed that the complainant's injuries were the result of a buffalo attack.

10. 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. It is well settled law that once the trial court records an acquittal, the accused earns presumption of double innocence, and the appellate court should not reverse such findings unless find the reasoning in the impugned judgment to be perverse, arbitrary, foolish, artificial, speculative and ridiculous or based on misreading or non-reading of evidence, as was held by the Supreme Court in the case of **State v. Abdul Khaliq and others (PLD 2011 SC 554)**.

11. The reasons given by the learned trial Court in its impugned judgment have not been found to be arbitrary, fanciful or capricious warranting interference by this Court. Hence instant

Criminal Acquittal Appeal being devoid of merit is hereby dismissed.

**JUDGE**

\*Saleem\*