

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Acquittal Appeal No.236 of 2026

Appellant : Muhammad Warial through Hafiz Mohammad Khan
Panhwar, Advocate.

Respondent No.1&6 : The State & another : Nemo

Respondents No.2 to 5 : Muhammad Ali & others : Nemo

Date of Hearing : 21.04.2026

Date of judgment : 21.04.2026

J U D G M E N T

TASNEEM SULTANA, J.— The appellant Muhammad Warial has called into question the judgment dated 28.01.2026 passed by the learned Civil Judge & Judicial Magistrate, Garho, in Criminal Case No.21 of 2024, arising out of Crime No.02 of 2024 registered at Police Station Ghorabari under Sections 337-A(i), 337-A(ii), 337-L(ii), 114 and 34, P.P.C., whereby respondents namely (1) Muhammad Ali son of Abdul Latif Jokhio, (2) Pinyo alias Punhoon son of Hussain Jokhio, (3) Ali Bux son of Hussain Jokhio and (4) Ghous Muhammad son of Mola Bux Jokhio were acquitted of the charge under Section 245(i), Cr.P.C. by extending them benefit of doubt.

2. Brief facts of the prosecution case are that complainant Muhammad Warial lodged report on 16.01.2024 at Police Station Ghorabari, alleging therein that on 02.01.2024 at about 1500 hours, while he was going to his village on foot from Mehar Shah city, he reached a raw road where he found accused Muhammad Ali armed with hatchet, Pinyo alias Punhoon armed with iron rod, Ali Bux armed with baton and Ghous Muhammad standing there. According to the complainant, due to previous dispute between the parties, accused Ghous Muhammad instigated the co-accused not to spare him, whereafter accused Muhammad Ali caused injury with the backside of hatchet on the left side of his forehead, accused Pinyo caused iron rod injury on the right side of his head and accused Ali Bux caused baton injury on his right leg, due to which he fell down. On his cries, witnesses Ismail Jokhio, Asif Ismail Jokhio, Muhammad Hassan and Muhammad Shareef arrived, whereafter the accused persons went away towards their village. The complainant thereafter obtained police letter, went to Var Hospital, from where he was referred to Civil Hospital Makli and, after obtaining medical certificate, lodged the FIR.

3. After usual investigation, police submitted charge-sheet under Section 173, Cr.P.C. The requisite documents were supplied to the respondents in terms of Section 241-A, Cr.P.C., whereafter formal charge was framed against them at Exh.02, to which they pleaded not guilty and claimed trial.

4. To prove its case, prosecution examined appellant Muhammad Waryal as PW-01 at Exh.03, who produced FIR at Exh.03/A. PW-02 Ismail was examined at Exh.04. Thereafter prosecution gave up witness Muhammad Sharif through statement at Exh.05. PW-03 Muhammad Hassan was examined at Exh.06 and was declared hostile. PW-04 Asif was examined at Exh.07. PW-05 Dr. Sajid Shaikh was examined at Exh.08, who produced police letter dated 02.01.2024 at Exh.08/A, provisional medico-legal certificate at Exh.08/B and final medico-legal certificate at Exh.08/C. Investigating Officer ASI Abdul Qadir was examined at Exh.09, who produced receipt of complaint on police letter, memo of injuries, roznamcha entry and memo of site inspection at Exh. 09\A to Exh.09/D. Thereafter prosecution side was closed vide statement at Exh.10.

5. Statements of the respondents under Section 342, Cr.P.C. were recorded at Exhs.11 to 14, wherein they denied the prosecution allegations, professed innocence and pleaded false implication on account of landed/property dispute. They, however, neither examined themselves on oath under Section 340(2), Cr.P.C. nor produced any witness in defence. The learned trial Court, after hearing learned counsel for the respondents, learned counsel for appellant and learned ADPP for the State, acquitted the respondents of the charge vide judgment dated 28.01.2026, which has been assailed through the instant appeal.

6. Learned counsel for the appellant contended that the impugned judgment is based on misreading and non-reading of evidence; that the learned trial Court failed to appreciate that the appellant himself was an injured witness and had fully supported the prosecution case by assigning specific role to each respondent; that the ocular account was duly corroborated by medical evidence; that the prosecution witnesses supported the material particulars of the occurrence and minor discrepancies, if any, were not sufficient to discard the prosecution case; that the learned trial Court gave undue weight to immaterial contradictions and adopted a hyper-technical approach while appreciating the evidence; that delay in lodging of FIR was sufficiently explained, as the appellant had first obtained medical treatment and certificate; and that there was no reason for false implication of the respondents. He lastly prayed that the impugned judgment be set aside and the respondents be convicted in accordance with law.

7. Heard. Record perused.

8. The record has been examined in the light of the contentions raised by learned counsel for the appellant and within the settled scope of interference in an appeal against acquittal. An acquittal recorded by a competent Court strengthens the presumption of innocence in favour of the accused and, therefore, such finding is not to be disturbed unless it is shown to be perverse, arbitrary, fanciful, artificial or the result of gross misreading or non-reading of material evidence.

9. The prosecution case, in substance, was that on 02.01.2024 at about 1500 hours, the appellant was going towards his village from Mehar Shah city when the respondents, allegedly armed with hatchet, iron rod and baton, caused injuries to him, while respondent Ghous Muhammad allegedly instigated them not to spare the appellant. The FIR was lodged on 16.01.2024 after obtaining medical certificate.

10. From perusal of the record, it appears that the learned trial Court noticed material infirmities in the prosecution case. The appellant placed the occurrence at about 1500 hours, whereas PW-02 Ismail stated the time as 1430 hours and PW-04 Asif stated it to be 1600 hours; both PW-02 and PW-04 also admitted that they did not remember the date of occurrence. The appellant stated that he was alone when he reached the place of occurrence, whereas PW-02 claimed that he was already present with the appellant at the land. The appellant further stated that no house was situated near the place of occurrence, while PW-04 admitted that houses were situated nearby. These discrepancies relate to the presence of the alleged eyewitnesses and the manner in which the occurrence was allegedly witnessed.

11. The prosecution case was further weakened by the fact that PW-03 Muhammad Hassan, mashir of memo of site inspection, did not support the prosecution and stated that police did not visit the place of incident in his presence. The medical evidence also did not fully correspond with the ocular version, as the alleged baton blow on the right leg found no mention in the medical certificate, whereas injury noted on the backside was not attributed to any accused in the ocular account. Besides, the weapons of offence were not recovered, blood-stained earth and blood-stained clothes were not produced, and no independent witness from the locality was examined despite availability. These contradictions and omissions, when examined cumulatively, created reasonable doubt in the prosecution case.

12. The impugned judgment is a speaking one and does not suffer from any illegality or perversity warranting interference by this Court. The learned trial Court was justified in extending benefit of doubt to the respondents/accused and such acquittal is not shown to have been recorded in an arbitrary, cursory or fanciful manner. Learned counsel for the appellant has also not been able to point out any material misreading or non-reading of evidence.

13. It is settled law that the scope of interference in an appeal against acquittal is narrow and limited because an acquittal carries double presumption of innocence in favour of the accused. The Hon'ble Supreme Court of Pakistan in the case of Muhammad Riaz versus Khurram Shehzad and another (2024 SCMR 51) has held as under: -

“10. The aforesaid set of circumstances creates misgivings and suspicions regarding the presence of the prosecution witnesses at the scene of the crime, and the discrepancies and defects in the investigation and the prosecution case pointed out by the learned High Court in the impugned judgment also colors the case in doubt and improbability. Therefore, the learned High Court rightly held that the prosecution badly failed to substantiate the case against the respondent No. 1, and the learned Trial Court was not justified in convicting him on the strength of untrustworthy or uncorroborated evidence which was full of material contradictions, especially contradictions in the ocular and medical evidence. It is a well-settled exposition of law that in an appeal against acquittal, the Court would not ordinarily interfere and would instead give due weight and consideration to the findings of the Court acquitting the accused which carries a double presumption of innocence, i.e. the initial presumption that an accused is innocent until found guilty, which is then fortified by a second presumption once the Court below confirms the assumption of innocence, which cannot be displaced lightly.”

14. The above principle is further fortified by the law laid down by the Hon'ble Supreme Court in State versus Abdul Khaliq and others (PLD 2011 SC 554), wherein it has been held as under:-

“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.”

15. In view of the above discussion, I find no merit in the instant Criminal Acquittal Appeal, which was dismissed in limine vide short order dated 21.04.2026, and these are the reasons thereof.

JUDGE