

THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Acquittal Appeal No.S-71 of 2026

Appellant: Shabir Ahmed through Mr. Sagar Ali Sathio,
Advocate.

Respondents: No notice issued.

Date of hearing: 12.10.2026.

Date of order: 12.10.2026.

ORDER

MUHAMMAD HUMAYON KHAN, J: — The appellant/complainant has filed this Criminal Acquittal Appeal under Section 417(2-A), Cr.P.C., calling in question the judgment dated 22.05.2026 passed by the learned Additional Sessions Judge-II, Tando Muhammad Khan, in Sessions Case No.57 of 2024, arising out of FIR No.56/2024 registered at Police Station Shaikh Bhirkio for offences under Sections 324, 334, 336, 511 and 34, P.P.C. By the impugned judgment, the respondents/accused were acquitted under Section 265-H (i), Cr.P.C. The appellant seeks setting aside of that judgment and conviction of the respondents.

2. The prosecution case, briefly stated, is that at about 12:10 a.m. on 28.06.2024, the respondents entered the complainant's house. Respondents Jawed and Muhammad Aslam allegedly caught hold of the injured, Muhammad Bux, while respondent Muhammad Afzal allegedly caused an injury to his male organ with a dagger. On hearing cries, the complainant and other family members reached the spot, whereupon the accused allegedly fled. The injured was taken for treatment, and the FIR was registered on 02.07.2024. After recording the prosecution evidence, the learned trial Court found circumstances giving rise to reasonable doubt and acquitted the respondents.

3. Learned counsel for the appellant contends that the impugned judgment suffers from misreading and non-reading of the evidence. He submits that the injured's testimony was corroborated by the complainant and the medical record; that the delay in lodging the FIR was due to emergency treatment; and that the injured's subsequent recovery could not extinguish criminal liability. He further contends that the trial Court wrongly relied upon the disputed video, the parties' previous litigation and deficiencies in the investigation. He accordingly seeks interference with the acquittal.

4. I have heard learned counsel for the appellant and examined the material available on the record.

5. An acquittal strengthens the presumption of innocence. An appellate Court will interfere only where the findings are perverse, arbitrary or fanciful, or result from material misreading or non-reading of the evidence. A different view of the evidence, by itself, is not enough; the appellant must show a substantial legal or factual infirmity in the judgment. Here, the contemporaneous police entry and the subsequent FIR are material circumstances. As noted by the trial Court, Entry No.19 dated 28.06.2024 records that the complainant reported that his brother had sustained injuries “during scuffle” and sought a medical letter. The FIR, lodged about four days later, contains the specific allegation that the nominated accused deliberately caused the genital injury. The need to obtain emergency treatment may explain some delay, but the record, as discussed by the trial Court, does not adequately reconcile the difference between the initial report and the later, detailed accusation. The explanation of medical emergency, though relevant, does not by itself resolve that discrepancy. In view of the admitted prior land litigation between the parties, the trial Court was justified in examining this circumstance with caution.

6. The medical evidence does not remove the doubts arising from the record. The medical officer relied upon the SIUT records and ultrasound findings, which described a small collection at the base of the penile shaft and an estimated reduction of 15–20% in erectile capacity. The final medico-legal certificate had been challenged before the Special Medical Board and, according to the material discussed in the impugned judgment, was kept in abeyance because the injured did not appear. The prosecution asserted that he had attended the Board but that his attendance was not properly recorded. The available material, however, does not conclusively establish that assertion or show that the Board declined to examine him. The treatment documents support the existence of a medical condition, but the weight and legal effect of the final injury classification remained uncertain. The trial Court's observation that recovery or preserved function, by itself, excludes an offence under Section 336, P.P.C., cannot be accepted as an absolute proposition of law. Even so, the medical evidence, read as a whole and in the context of the other circumstances, does not dispel the doubts about the prosecution version.

7. The prosecution did not produce the injured's blood-stained clothes before the Investigating Officer and the blood-stained earth collected from the place of occurrence was not sent for chemical examination. The Investigating Officer also admitted that no independent person from the locality was associated with the inspection, despite the presence of adjacent houses, and that the mashirs had been produced by the complainant. These omissions, considered individually, would not necessarily discredit otherwise reliable ocular testimony. Their significance, however, must be assessed with the discrepancy between the initial police entry and the FIR, the admitted prior enmity, and the uncertainty surrounding the final medical opinion. The complainant and the injured are related witnesses, but their relationship alone is no reason to discard their evidence. Conversely, the disputed defence video could not properly be treated as conclusive merely because it was produced, particularly when its authenticity was challenged. The evidence must be considered as a whole to determine whether it safely establishes guilt beyond reasonable doubt.

8. The benefit of a reasonable doubt is a right of the accused, not a matter of grace or concession. A doubt may arise from a single circumstance, if that circumstance would cause a prudent person to hesitate before accepting the prosecution case.

9. The question in this acquittal appeal is whether the ultimate finding is so unreasonable or legally untenable that appellate interference is warranted. On the material available, the appellant has not established perversity, material misreading or non-reading of the evidence. The possibility of another view is insufficient to displace the acquittal, which carries an enhanced presumption of innocence.¹

10. For the foregoing reasons, no sufficient ground for interference with the impugned judgment has been made out. The Criminal Acquittal Appeal is, accordingly, **dismissed** in *limine* and the judgment of acquittal is **maintained**.

JUDGE

Abdullah Channa/PS

¹ TARIQ PERVEZ v. THE STATE (1995 SCMR 1345), MUHAMMAD SAEED v. THE STATE (2008 P.Cr.L.J. 1752), GHULAM MURTAZA v. THE STATE (2010 P.Cr.L.J. 461), MOHAMMAD MANSHA v. THE STATE (2018 SCMR 772).