IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Acquittal Appeal No.625 of 2026

Appellant	:	Ghulam Mustafa S/o Muhammad Bukhsh Mangi *Through* Mr. Muhammad Nasir, Advocate.
Respondents	:	The State & others.
Date of hearing	:	28.10.2026.
Date of Order	:	28.10.2026.

Fresh Case:
1. For orders on MA No.17769/2026.
2. For orders on MA No.17770/2026.
3. For hearing of main case.

O R D E R

KHALID HUSSAIN SHAHANI, J. –Through this appeal under Section 417(2-A), Cr.P.C., the appellant/complainant has assailed the judgment dated 04.09.2026, passed by the learned Xth Judicial Magistrate, Malir, Karachi, in Criminal Case No.137/2024, emanating from FIR No.460/2024, registered under Sections 380/34, PPC, at Police Station Sachal, whereby respondents Nos.2 to 5 were acquitted under Section 245(1), Cr.P.C. Learned counsel for the appellant, while pressing the appeal at the admission stage, has questioned the impugned judgment principally on the grounds of misreading and non-reading of prosecution evidence, contending that the ocular account, documentary material and circumstances brought on record were sufficient to establish the charge, but were discarded upon insignificant contradictions.

2. The prosecution case, briefly, was that the appellant discovered the disappearance of gold ornaments weighing ten tolas and cash amounting to Rs.650,000/- from his residence following the departure of his son, respondent Danish Mustafa, on 22.02.2024. A previous occurrence dated 15.07.2023, involving the alleged removal of further jewellery by the remaining respondents, was also incorporated into the accusation. After recording the evidence of five prosecution witnesses and examining the accused under Section 342, Cr.P.C., the learned trial Court found the charge unproved and extended the benefit of doubt.

3. Heard and perused the material placed on record, particularly the depositions of the prosecution witnesses and the reasons assigned in the

impugned judgment. The scrutiny discloses that the findings culminating in acquittal are neither conjectural nor the product of material non-reading of evidence. PW-1 Ghulam Mustafa, the complainant, unequivocally acknowledged that he had not personally witnessed the accused committing theft. PW-2 Mst. Kosar and PW-3 Daniyal Mustafa made substantially similar admissions. The latter further conceded that he was unaware of the contents of the briefcases allegedly carried by the respondents. Thus, notwithstanding the allegations of departure from the matrimonial home and removal of luggage, no witness furnished direct evidence connecting the respondents with the alleged dishonest removal of the articles in question.

4. The prosecution version was further impaired by the delayed registration of the FIR, material omissions in the initial application and subsequent improvements in the ocular account. Significantly, PW-1 admitted alterations in his written application, including substitution of the name of one proposed accused, while the jewellery receipts subsequently produced in evidence found no mention in the FIR or the initial application. PW-2 acknowledged that other family members were also acquainted with the master key of the wardrobe, thereby excluding any inference of exclusive access. The investigating officer, PW-4 SIP Masood Ali, admitted that no stolen property was recovered from the accused and that the jewellery receipts were neither verified from the concerned jewellers nor supported by their examination during investigation. The receipts, at their highest, could lend support to the acquisition of certain ornaments; they could not, without independent incriminating evidence, establish their subsequent theft by the respondents.

5. The record concerning the bank locker also does not advance the appellant's case to the requisite degree of certainty. The order dated 01.08.2024, passed in Criminal Bail Application No.753/2024, records the parties' respective positions concerning a *duhri* and two earrings, their connection with the marriage, and an arrangement for return of those articles, coupled with a contemplated compromise. Such proceedings neither constitute a judicial determination of theft nor establish dishonest appropriation of the remaining property attributed to the respondents. The existence of matrimonial and domestic discord, viewed alongside the absence of recovery and the deficiencies in the prosecution evidence, furnished a reasonable basis for the trial Court to entertain doubt. While some observations concerning the complainant's professional standing were unnecessary for deciding the criminal charge, their exclusion does

not dislodge the independent and legally sustainable reasons supporting the acquittal.

6. It is an established principle of criminal jurisprudence that an acquittal reinforces the presumption of innocence, and appellate interference is warranted only where the judgment is demonstrably perverse, arbitrary, manifestly illegal or founded upon grave misreading or non-reading of material evidence. A merely possible alternative view of the evidence does not justify reversal of an otherwise plausible acquittal. Reference may be made to PLD 2011 SC 554[1] and 2024 SCMR 1116[2]. Tested against this settled standard, the impugned judgment reflects a reasonably possible appreciation of the evidence, and the grounds urged by the appellant do not disclose any infirmity of such magnitude as would warrant interference. The deficiencies identified by the trial Court strike at the prosecution's ability to establish the essential ingredients of the charged offence and cannot be dismissed as inconsequential discrepancies.

7. Consequently, finding no perversity, material illegality or grave misreading or non-reading of evidence in the impugned judgment, this criminal acquittal appeal is dismissed in *limine* at the admission stage along with pending applications, and the judgment dated 04.09.2026 is maintained.

J U D G E

Shahbaz

[1] *The State and others v. Abdul Khaliq and others.*
[2] *Sardaran Bibi v. The State and others.*