

ORDER SHEET
**IN THE HIGH COURT OF SINDH, CIRCUITCOURT,
HYDERABAD**

Criminal Acquittal Appeal No.S-191 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
	<ol style="list-style-type: none">1. For orders on M.A. No.7928/2020.2. For orders on office objections.3. For orders on M.A.No.7929/2020.4. For hearing of main case.

16.11.2020.

Mr. Jahangir Khan Pathan, Advocate for appellant.

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1. Urgency granted.
2. Overruled.
3. Exemption granted subject to all just exceptions.
4. The appellant by way of instant acquittal appeal has impugned judgment dated 08.10.2020 passed by learned 10th Civil Judge & Judicial Magistrate, Hyderabad, whereby the private respondents have been acquitted of the offence for which they were charged.

It is alleged that private respondents in furtherance of their common intention committed fraud and forgery with the appellant and others for getting them or their relative appointment in various departments against money, for that the present case was registered.

At trial, the private respondent did not plead guilty to the charge and prosecution to prove it examined appellant and his witnesses and then closed the side.

The private respondents in their statements recorded u/s 342 Cr.P.C denied the prosecution allegation by pleading innocence, they however did not examine anyone in their defence or themselves on oath to disprove the allegation of prosecution against them.

On evaluation of evidence so produced by the prosecution learned trial Court acquitted the private respondents by way of impugned judgment.

It is contended by the learned counsel for the appellants that learned trial Court has recorded acquittal of the private respondents on the basis of improper evaluation of evidence. By contending so, he sought for issuance of notice against the private respondents for hearing of instant appeal on regular basis.

I have considered the above arguments and perused the record.

The F.I.R of incident is lodged with delay of more than two years, such delay could not be ignored. The appointment in public service is to be made on merits after wide publicity. If, the appellant and others were going to get them or their relative appointed in public service other than merit by making payment than they had to blame themselves and none else. In these circumstances, learned trial Court was right to record acquittal of the private respondents by extending them benefit, such acquittal is not found to be cursory or arbitrary to be interfered with by this Court.

In case of *State and others vs. Abdul Khaliq and others (PLD 2011 SC-554)*, it has been held by the Hon'ble Apex Court that;

“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. Interference in a judgment of acquittal is rare and the prosecution must show that there are glaring errors of law and fact committed by the Court in arriving at the decision, which would result into grave miscarriage of justice; the acquittal judgment is perfunctory or wholly artificial or a shocking conclusion has been drawn. Judgment of acquittal should not be interjected until the findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous. The Court of appeal should not interfere simply for the reason that on the reappraisal of the evidence a different conclusion could possibly be arrived at, the factual conclusions should not be upset, except when palpably perverse, suffering from serious and material factual infirmities”.

In view of above, the instant acquittal appeal is dismissed in *limine*.

JUDGE

Muhammad Danish Steno*