

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Acquittal Appeal No.S-101 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objections.
2. For hearing of main case.

23.02.2021

Mr. Liaquat Ali Bhand, Advocate for the appellant.
Mr. Shawak Rathor, D.P.G for State.

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IRSHAD ALI SHAH, J. The facts in brief necessary for disposal of instant acquittal appeal are that the applicant lodged an FIR with PS Gharibabad Mirpurkhas, inter alia alleging therein that the private respondents being his employees or otherwise have committed theft of his belonging from his house, when he and his family members gone to Saudi Arabia to perform Umrah. On trial, the private respondents were acquitted of the charge by learned Ist Civil Judge & Judicial Magistrate (MTMC), Mirpurkhas vide his judgment dated 12.02.2020, which is impugned by the appellant before this Court by preferring the instant Criminal Acquittal Appeal.

2. It is contended by the learned counsel for the appellant that the prosecution was able to prove its case against the private respondents beyond shadow of doubt, yet they have been acquitted on the basis improper assessment of the evidence by learned trial Magistrate, therefore, such acquittal of the private respondents is liable to be examined by this Court.

3. Learned D.P.G for the State has sought for dismissal of the instant Acquittal Appeal by supporting the impugned judgment.

4. I have considered the above arguments and perused the record.

5. Indeed, none has seen the private respondents committing the alleged theft. The FIR of the incident has been lodged with delay of about more than one month. The recovery of gold nose ring worth rupee one thousand being available in market could hardly be made a reason for recording conviction against the private respondents. In these circumstances, learned trial Magistrate was right to record acquittal of the private respondents by extending them benefit of doubt.

6. 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”.

7. Nothing has been brought on record, which may suggest that the private respondents have been acquitted by trial Magistrate in arbitrary or cursory manner, which may justify this Court to make interfere with their acquittal.

8. Consequent upon above discussion, the instant Acquittal Appeal is dismissed.

JUDGE