

*ORDER SHEET*  
**IN THE HIGH COURT OF SINDH, CIRCUIT  
COURT, HYDERABAD.**

Cr.Acq.Appeal No.S- 201 of 2006

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DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

22.11.2019.

None present for appellant  
Mr. Shahzado Saleem Nahiyoon, D.P.G for the State.  
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By way of instant acquittal appeal the appellant / complainant has impugned judgment dated 30.08.2006 passed by learned 3<sup>rd</sup> Civil Judge & Judicial Magistrate, Sanghar, whereby the private respondents have been acquitted of the offence for which they were charged.

2. The instant appeal is pending on file of this Court since 2006, it is not being pursued by the appellant / complainant without any lawful justification, therefore it was decided to be disposed of with the help of learned D.P.G for the State.

3. The allegation against the private respondents is that they in furtherance of their common intention committed breach of trust by misappropriating the pair of bullock of complainant party..

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

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

6. On evaluation of evidence so produced by the prosecution learned trial Court acquitted the private respondents, such acquittal is impugned by the appellant / complainant before this Court by way of instant Acquittal Appeal as stated above.

7. Learned D.P.G has supported the impugned judgment.

8. The actual incident has taken place at unknown date and time and PW Anwar Qureshi was owner of the bullocks allegedly misappropriated by the private respondents has not been examined by the prosecution. In these circumstances, learned trial Magistrate was right to record acquittal of the private respondents by extending them benefit of doubt with following observation;

*“There is no ocular evidence against the present accused persons about taking away the bullocks and committing breach of trust other Villagers about taking away the bullocks. But PW Utmo contradicted him by deposing that on 08.11.2004 Kamdar Ranjho Khaskheli came in village of Raheemabad, who disclosed that Dharoo Bheel, Moti Bheel, Jeo Bheel and Ablo Bheel went and they took away the bullocks of Zamindar towards unknown place. Moreover, the alleged case property viz. pair of bullocks, was not recovered from the possession of the accused persons.”*

9. 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”.*

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

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

JUDGE

Ahmed/Pa