

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

Cr.Acq.Appeal No.S- 87 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case

20.12.2019.

Mr. Muhammad Saleem Leghari, advocate for
appellant/ complainant.

Ms. Rameshan Oad, A.P.G for the State.

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IRSHAD ALI SHAH, J. The appellant / complainant by way of instant acquittal appeal has impugned judgment dated 29.04.2019 passed by learned 2nd Additional Sessions Judge, Umerkot, whereby the private respondents have been acquitted of the offence for which they were charged.

2. The facts in brief necessary for disposal of instant Acquittal Appeal are that the private respondents were having a dispute with the complainant party over possession of landed property, therefrom they were allegedly dispossessed through an order of Hon'ble High Court. Consequently, they fired at PWs Sher Muhammad and Zaman Kapri, those fires, they managed to escape. The complainant party then was kept under wrongful restraint. The private respondents then by break opening the locks of godown take away therefrom in all 400 bags of Chilies by loading them in their tractor trolley, while going they also caused superficial fire shot injury to PW Abdullah Shaikh on his right ankle joint, by

attempting to take back the possession of the land, therefrom they were dispossessed, by threatening the complainant party of murder and making aerial firing, for that they were booked and reported upon.

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

4. 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.

5. On evaluation of evidence, so produced by the prosecution, learned trial Court acquitted the private respondents of the charge by way of judgment dated 29.04.2019, which is impugned by the appellant / complainant before this Court by way of instant appeal as stated above.

6. It is contended by learned counsel for the appellant / complainant that learned trial Court has recorded the acquittal of the private respondents without lawful justification on the basis of improper assessment of evidence. By contending so, he sought for issuance of notice against the private respondents.

7. Learned A.P.G for the State by supporting the impugned judgment has sought for dismissal of the instant acquittal appeal.

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

9. The fires allegedly made at PWs Sher Muhammad and Zaman Kapri proved to be ineffective one. Fire shot injury allegedly sustained by PW Abdullah on medical examination was found to have been caused to him with some hard blunt substance. No independent person from the locality was examined by the police to ascertain the correctness of the incident. The parties are admittedly disputed over the possession of land. Allegation of robbery is appearing to be doubtful. In these circumstances, learned trial Court was right to record acquittal of the private respondents by extending them benefit of doubt.

10. 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”.

11. 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 their acquittal.

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

JUDGE