

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Spl.Anti-Terrorism Acq.A.No.D- 354 of 2019

Before:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Irshad Ali Shah

Muhammad MiskeenAppellant
Versus
Muhammad Sharif and another Respondent

Date of Hearing: 29.01.2020
Date of Decision: 29.01.2020

Mr. Raja Hassan Nawaz, advocate for the appellant.

J U D G M E N T

IRSHAD ALI SHAH, J:- The appellant / complainant by way of instant acquittal appeal has impugned judgment dated 3.10.2019, passed by learned Judge Anti-Terrorism Court No.XIII, Karachi, whereby the private respondent has been acquitted of the offence for which he was charged.

2. It is the case of the prosecution that the private respondent with rest of the culprits by making trespassed into house of complainant Muhammad Miskeen by resorting to criminal intimidation abducted him for ransom and then released him after receipt of ransom of Rupees Five Lacs, for that the present case was registered.

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

4. The private respondent in his statement recorded under Section 342 Cr.P.C denied the prosecution allegation by pleading innocence by stating that he has been involved in this case falsely by the complainant party only to resolve his dispute with them over money matter. He did not examine anyone in his defence or himself on oath.

5. On evaluation of evidence, so produced by the prosecution learned trial court acquitted the private respondent of the charge by way of impugned judgment.

6. It is contended by learned counsel for the appellant / complainant that learned trial court has recorded acquittal of the private respondent on the basis of improper assessment of evidence. By contending so, he sought for issuance of notice against the private respondent and state for regular hearing of the instant acquittal appeal.

7. We have considered the above arguments and perused the record.

8. None has reported the incident to police soon after alleged abduction of the appellant/complainant, which appears to be significant. The lodgment of the FIR with delay of about twenty days; that too after having a recourse under section 22-A & 22-B Cr.P.C. could not be over looked. It is reflecting deliberation and consultation. The 161 Cr.P.C. statement of the P.Ws as per SIO/Inspector Muhammad Yaseen were recorded on 22.12.2014. If it is so, then it is with delay of about six month even to FIR, such delay could not be ignored. It has come on record that he appellant/complainant and private respondent being closely related have a dispute with each other over money matter and such dispute between them is going on before the Civil Court having jurisdiction. On investigation the very case was recommended by the police to be disposed of under "A" Class. In these circumstances, learned trial court was right to record acquittal of the private respondent by extending him benefit of doubt.

9. In case of *State & ors Vs. Abdul Khaliq & ors (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 respondent has been acquitted by the learned trial Court in arbitrary or cursory manner, which may justify this Court to make interfere with his acquittal by way of instant Special Anti-Terrorism Acquittal Appeal. It is dismissed in limine together with the listed applications.

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