

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

Cr.Acquittal.Appeal.No.D- 291 of 2012

Present:-
Mr. Justice Naimatullah Phulpoto.
Mr. Justice Shamsuddin Abbasi.

Date of hearing: 09.04.2018.
Date of judgment: 09.04.2018.

Syed Meeral Shah, Additional Prosecutor General Sindh for
the State/appellant.
Mr. Zahoor A. Baloch, Advocate for respondent.
Respondent is present in person.

J U D G M E N T

NAIMATULLAH PHULPOTO, J: Respondent / accused Abdul Karim s/o Muhammad Mitho was tried by learned Additional Sessions Judge-V, Hyderabad in Sessions Case No.228 of 2007 for offence u/s 302 PPC. By judgment dated 28.07.2012, the respondent/accused were acquitted of the charge by extending him benefit of doubt. Hence, instant Criminal Acquittal Appeal was filed by the State through Prosecutor General Sindh, Karachi.

2. Brief facts of the prosecution case as disclosed in the FIR are that on 19.04.2007 at 1000 hours, complainant Syed Ilyas Zafar lodged FIR, stating therein that he is a Law Officer posted at Tando Allahyar. His sister Farhatullah Bano (now deceased) was posted as District

Population Officer in District Tando Allahyar. She was residing in the rented portion of the house of Abdul Rauf Qaimkhani situated near Al-Khidmat Hospital, Tando Allahyar. Present accused/respondent Abdul Karim used to reside with her as domestic servant. It is alleged that accused/respondent Abdul Karim used to ask the deceased to allow him to drive her official vehicle but she did not allow him to drive the vehicle. It is further alleged that Abdul Karim also made such complaint to complainant that his sister was not allowing him to drive the vehicle on which Abdul Karim was annoyed. On the day of incident, complainant was present in his house, when Nouman son of the landlord Abdul Rauf telephoned him and informed that his sister has been murdered. On such information, the complainant alongwith his brother-in-law Anis ur Rehman Memon arrived at the said rented house of Farhatullah Bano and found her dead. There were marks of violence on her body. On enquiry, by the complainant Abdul Rauf, he was informed that during the night at 11-30 p.m, Mohalla people informed them that there was noise at the upstairs, on which PW Nouman and his father went upstairs and found Abdul Karim standing there who informed them that Farhatullah Bano felt pain and now she was sleeping after taking medicine. They further told the complainant that they returned back to the home and went to sleep. In the morning Abdul Karim did not knock their door for taking eggs and milk from refrigerator. Thereafter, Nouman went upstairs but Abdul Karim was not present in the house. PW Nouman went inside the room, to check and found that Mst. Farhatullah Bano was lying on the ground, blood was oozing from her mouth and nose, on which Nouman came down and informed his father who called a doctor from a vicinity. The doctor after check up, declared her to be dead. The complainant checked the house hold articles and found ornaments of

gold of his sister were missing. Respondent / accused Abdul Karim was also not present. Complainant went to the police station and lodged the FIR, suspecting the Abdul Karim as culprit. FIR was recorded vide Crime No.64/2007, u/s 302 PPC at P.S. Tando Allahyar.

3. After usual investigation, challan was submitted against the respondent/accused named above under the above referred sections.

4. Trial court framed charge against the respondent/accused, to which he pleaded not guilty and claimed to be tried.

5. At the trial, prosecution examined in as much as 08 PWs who produced the relevant documents/reports. Thereafter, prosecution side was closed.

6. Statement of accused was recorded u/s 342 Cr.P.C. in which accused claimed false implication in this case and denied the prosecution allegations.

7. Trial court formulated three points for determination and replied the point No.2 with regard to the involvement of accused as doubtful and acquitted the accused by judgment dated 28.07.2012.

8. State filed Appeal against acquittal on 10.10.2012 and notice was issued to the respondent who is present today alongwith his counsel.

9. Syed Meeral Shah, A.P.G. for the State has argued that the judgment passed by the trial court is against the law and is the result of misreading and non-reading of evidence. He further contended that the witnesses have supported the prosecution case and there were minor contradictions in the evidence of the prosecution witnesses which could have been ignored by the trial court. He further contended that

circumstantial evidence was corroborated by the medical evidence. It is argued that confessional statement of the accused was also recorded in this case. Lastly argued that judgment of acquittal was speculative and same is not sustainable under the law.

10. On the other hand, Mr. Zahoor A. Baloch, learned counsel for the respondent/accused contended that the ocular evidence was contradictory to medical evidence. He further submits that all the witnesses were chance witnesses and their evidence was not reliable. He submits that the judgment of the trial court is well reasoned and requires no interference by this court.

11. We have carefully perused the prosecution evidence and impugned judgment passed by the trial court dated 28.07.2012. Trial court has recorded acquittal in favour of respondent/accused mainly for the following reasons:-

“14. Infact that is the whole evidence against the accused, (beside his confessional statement). They both (PWs-4 and 5) have deposed the said fact in almost the same words i.e. To have seen the accused lastly with the deceased. However, the said witness Muhammad Nauman (PW-5) has deposed in examination in chief that it was load shedding and there was no light at the said time when he went to check on the noises coming from upstairs at the time of incident and on his way the accused Abdul Karim came out and told that Mst. Farhatullah Bano is taking rest after taking medicines. Whereas his father Abdul Rauf (PW-4) has deposed that on hearing the voices his son went up wards at stairs and he was behind him while the accused Abdul Karim was coming down from the stairs and he told the said fact that the lady had taken the medicine and is taking rest and that he did not go upwards and his son also came down. Further said witness Muhammad Nauman (PW-5) in cross examination has deposed that he went upwards and that the accused did not meet him at stairs. In the morning, when he went to check out the outer door was opened, that he is not eye witness of the incident and has also admitted that he did not see the accused due

to acute darkness but has recognized him from the voice.

15. *The real and material discrepancy in the prosecution case is found with regard to the arrest of the accused. As per the mashirnama of arrest of accused Ex.4/D, he was arrested on 17.05.2007 i.e. after about a month of the incident, while the defence plea taken by the accused has been that he was on leave and left the house in the evening prior to the incident and on the next day of the incident when he went to the house of the deceased as usual on duty, the landlords handed him over to police. Thereby he had asserted to had been arrested on the very next day of incident. Whereas the I.O. ASI Yar Muhammad (PW-8) had introduced yet another version which does not find any corroboration from mashirs of arrest of the accused i.e. he arrested the accused on 17.05.2007 in presence of mashirs Anisur Rehman and Abdul Rauf and replying to a question in cross examination he (PW-8) has deposed that on 17.05.2007 while he visited various places alongwith his subordinate staff he came to know through the relatives of the accused that he had gone to surrender and while they were returning to PS, on their way at about 1550 hours they saw the accused at bus stop of Tando Allahyar from where he was arrested. He (PW-8) also admitted that on the said date i.e. 17.05.2007 when he left the PS the mashir of memo of arrest namely Anisur Rehman and Abdul Rauf were not accompanying him. Though he denied the suggestion that the accused was arrested even prior to the lodging of the FIR. Still further the said mashirnama of arrest Ex.4/D shows that the accused was arrested from bus stop Tando Allahyar on the pointation of complainant. Though it is mentioned in referred memo of arrest that the accused otherwise is resident of Saeedabad District Matiari and there is absolutely no explanation as what was doing in that small town of Tando Allahyar after about a month of the incident and again strangely without having anything in his pocket like few coins or even CNIC etc.*

16. *In the circumstances the position as to if the accused was arrested on the next day of the incident or after a month as alleged by the prosecution requires serious deliberation, specially to see if the confession was recorded timely, and not after a delay of one month by keeping the accused in custody and pressurizing him to confess. In this regard it is found that the point has given a serious blow to the prosecution case. Both the mashirs of arrest of the accused as per mashirnama Ex.4/D i.e. Anisur Rehman (P.W.2) and Abdul Rauf (PW-4) were examined by prosecution. The witness Anis ur Rehman who is also a close relative of the complainant and the deceased, has not verified the arrest of the accused as shown in such mashirnama Ex.4/D. In his*

examination in chief he (PW-2) has deposed that on the next day of incident when he went to the house of the deceased there he saw the dead body and the formalities were being made by the police i.e. preparation of the mashirnama of the place of vardat and Danishnama as Exs.4/A and B, stating that the same were prepared at the spot and had also deposed that accused was also present in police custody and he was called by the police and his signatures were obtained on the mashirnama which he produced as Ex.4/D. He (PW-2) has admitted that accused was arrested from Tando Allahyar bus stop in his presence. While the other mashir of arrest Abdul Rauf (PW-4) though examined is been silent on the point of the arrest of accused.

17. In the circumstances, the confessional statement Ex.9/A was seen to verify the date of arrest but the said confessional statement which otherwise is technically quite sound is found discrepant on the said material point. In the last question on the first page of the said confessional statement Ex.9/A i.e. "the accused is asked details as to length of time during which and the places where he has been in the custody of the police. He replied as follows, "it has been noted by learned Magistrate as answer that "I have been arrested by the police: The same is not found to be a proper reply to the question and the same is found to be materially detrimental to the prosecution case. Further the purposes of the question as required by the legislation is found to have been frustrated. In the discussed circumstances the other minor contradictions as far as example the complainant has deposed to have observed the marks of assault and violence on the dead body which he deposed to have caused by hard and blunt substance as deposed by him in cross examination and as deposed by him in examination in chief that her neck was broken does not get required corroboration from the medical report or even from other witnesses, who had seen the dead body. Other contradictions pointed out by learned defence counsel, however, are not found much material, that as per witness Abdul Rauf (PW-4) he sent his son Nauman (PW-5) to the house of the deceased on the upper floor to check out while as per said witness Muhammad Nauman (PW-5) it was his mother, who asked him on the next day morning to check out as to why Mst. Farhatullah Bano or her servant had not come to collect the breakfast. Same way the point emphasized by the defence that though all the private witnesses i.e. the landlords PWs-4 and 5 and on their basis even the complainant PW-1, the witness Anisur Rehman (PW-2) and the I.O have deposed that some doctor from the locality was called by the landlords on seeing the dead body for the first time, but neither said doctor has been examined nor any of the witness could even tell the

name of said doctor. As said earlier the same is not found much material, as has been the case with regard to the discrepancy that the complainant has deposed to have approached the PS after visiting the place of incident whereas his companion mashir Anisur Rehman has deposed that when they reached at the place of incident the police was already available at the spot.

18. Beside the material fact that the confessional statement does not get the required corroboration from other evidence led by the prosecution beside the serious doubts discussed above with regard to the date of arrest of the accused, which also caste serious doubts on the authenticity and veracity of the confessional statement Ex.9/A. Further looking to the position of the complainant who was Law Officer posted at same town of Tando Allahyar chances of his influence on investigation and witnesses specially the landlords PW-4 and 5 who have deposed to have seen the accused lastly at the place of incident and the evidence of the I.O. PW-8 cannot be ruled out to have been influenced by his position. While the witnesses and mashir Anisur Rehman is admittedly a close relative of the complainant. The prosecution is found to have shown serious slackness with regard to the samples sent to the Chemical Examination. The medical officer Dr. Shahina PW-6 answering to a question in the cross examination has deposed that on the next day of post mortem she sent the substances for chemical examination whereas as per chemical examination report the same were received by the chemical Examiner at Karachi through letter dated 03.08.2007 i.e. after about three and half months of the post mortem. Further, it is found that though human sperm were detected on the clothes of the deceased but no such sperm were found on the second sample i.e. vaginal swabs sent for chemical examination. The report is silent as to the blood group of detected human sperm. Further, no attempt was made by the police to obtain atleast the blood group of accused, though he was arrested much before the sending of samples for chemical examination.

19. In the discussed circumstances the prosecution is found is to be short of the required standard to base conviction and benefit of such doubt has to be extended to the accused. The case law cited on behalf of the prosecution is not found attracted in the peculiar circumstances of the case, in as much as, the referred Amal Sherin and another case (P./L.D.2004 S.C. 371) was a case of ocular testimony and not for the circumstantial evidence on the basis of the fact having seen the accused lastly at the place of incident, while none of the evidence has been discarded by this Court on the basis of mere relationship of the witnesses with

the deceased. Wilayat Ali case (2004 S.C.M.R. 477) is again found to be a case wherein the ocular account of occurrence was coherent, consistent and creditworthy was fully supported by medical evidence, strengthened by the confession beside the recovery of crime weapon and the abscondence of the accused. Muhammad Nadeem alias Deemi case (2011 S.C.M.R. 872) again has been a case based on ocular testimony supported by the recovery of crime weapon and the medico legal and post mortem reports. Muhammad Ilyas and others case (2011 S.C.M.R. 460) has again been a case of direct ocular evidence and it was after coherent and convincing eye witness that the court has held the minor contradictions to have rightly been ignored by learned trial Court. Same has been the case in the cited Liaquat Ali case (2009 S.C.M.R.91) Beside other facts the parties therein were closely related to each other and there was no question of substitution and it was in such back ground that the confession statement was given due weight.

20. In this regard the court instead finds attracted the case law cited by learned defence counsel i.e. P.L.D. 2002 Karachi 24(d) wherein it has inter alia been held that for a conviction the prosecution is required to establish beyond reasonable doubt all the ingredients constituting the offence and any lacuna, infirmity or doubt appearing in the case has always to be resolved in favour of the accused. In the cases reported as 2011 M.L.D. 967 and 2000 Y.L.R 758, it has inter alia been held that accused cannot be convicted solely on the basis of confessional statement which must be corroborated by other evidence of independent nature and before recording any conviction on the basis thereof, the courts are under obligation to enquire into all material points and surrounding circumstances to satisfy itself regarding the truthfulness and voluntairness of the confession. In the case of Dost Muhammad (P.L.D. 1982 Karachi 1000 (D) it has inter alia been held that the evidence showing the deceased in the company of the accused is a weak type of circumstantial evidence to base conviction, through in the referred case there were judicial confession, the extra judicial confession before the wife of the deceased and the recoveries of blood stained knife and the shalwar.

21. Foregoing in view the point is not found proved beyond shadow of doubt as required by law and the same is, therefore, hereby answered in negative.”

12. We have come to the conclusion that the prosecution failed to prove its case against the accused/respondent at the trial for the reasons that admittedly incident was unseen. Last seen evidence was

not corroborated by the other independent pieces of evidence. Postmortem examination of the deceased lady was conducted and the sperms were detected but no evidence whatsoever has come on record to satisfy the court that attempt was made by the respondent/accused for committing Zina with the deceased. Actual date of arrest of accused was also highly questionable. Keeping in view the High Court Rules, laying down a binding procedure for taking required precautions and observing the requirements of the provision of section 364 read with section 164, Cr.P.C. by now it has become a trite law that before recording confession and that too in crimes entailing capital punishment, the Recording Magistrate has to essentially observe all these mandatory precautions. The fundamental logic behind the same is that, all signs of fear inculcated by the Investigating Agency in the mind of the accused are to be shedded out and he is to be provided full assurance that in case he is not guilty or is not making a confession voluntarily then in that case, he would not be handed over back to the police. Thereafter, sufficient time for reflection is to be given after the first warning is administered. At the expiry of that time, Recording Magistrate has to administer the second warning and the accused shall be assured that now he was in the safe hands. All police officials whether in uniform or otherwise, including Naib Court attached to the Court must be kept outside the Court and beyond the view of the accused. After observing all these legal requirements if the accused person is willing to confess, then all required questions formulated by the High Court Rules should be put to him and the answers given, be recorded in the words spoken by him. The statement of accused be recorded by the Magistrate with his own hand and in case there is a genuine compelling reason then, a special note is to be given that the same was dictated to a responsible

official of the Court like Stenographer or Reader and oath shall also be administered to such official that he would correctly type or write the true and correct version, the accused stated and dictated by the Magistrate. In case, the accused is illiterate, the confession he makes, if recorded in another language i.e. Urdu or English then, after its completion, the same be read-over and explained to him in the language, the accused fully understand and thereafter a certificate, as required under section 364, Cr.P.C. with regard to these proceedings be given by the Magistrate under his seal and signatures and the accused shall be sent to jail on judicial remand and during this process at no occasion he shall be handed over to any police official/officer whether he is Naib Court wearing police uniform, or any other police official/officer, because such careless dispensation would considerably diminish the voluntary nature of the confession, made by the accused. Perusal of confessional statement reflects that sufficient time for reflection was not given to accused. Magistrate did not ask the accused that on which date, he was arrested and where he was detained. Stereotype questions were put to accused, which is not the requirement of law. But in this case, procedure and the pre-cautions were not observed by the Magistrate for recording the judicial confession of the accused/respondent and it was rightly disbelieved by the trial court. Moreover, the confessional statement is materially contradicted with other pieces of evidence. It has come on record that there was load-shedding on the night of incident and no one had seen the accused while committing the offence. Motive as set up by the prosecution does not appeal to a prudent mind even that has not been established by the prosecution at the trial. Since there is no ocular evidence in this case, other pieces of evidence were weak and without any corroboration. Trial court rightly appreciated the evidence of

prosecution witnesses and came to the conclusion that the prosecution has utterly failed to establish its case against the accused.

13. Moreover, appreciation of evidence in the case of appeal against conviction and appeal against acquittal are entirely different. As held in the case of *Ghous Bux v. Saleem and 3 others* (2017 P.Cr.L.J 836):-

“It is also settled position of law that the appreciation of evidence in the case of appeal against conviction and appeal against acquittal are entirely different. Additional P.G has rightly relied upon the case of *Muhammad Usman and 2 others v. The State* 1992 SCMR 489, the principles of considering the acquittal appeal have been laid down by honourable Supreme Court as follows:

It is true that the High Court was considering an acquittal appeal and, therefore, the principles which require consideration to decide such appeal were to be kept in mind. In this regard several authorities have been referred in the impugned judgment to explain the principles for deciding an acquittal appeal. In the impugned judgment reference has been made to *Niaz v. The State* PLD 1960 SC (Pak.) 387, which was reconsidered and explained in *Nazir and others v. The State* PLD 1962 SC 269. Reference was also made to *Ghulam Sikandar and another v. Mamaraz Khan and others* PLD 1985 SC 11 and *Khan and 6 others v. The Crown* 1971 SCMR 264. The learned counsel has referred to a recent judgment of this Court in *Yar Mohammad and 3 others v. The State* in Criminal Appeal No.9-K of 1989, decided on 2nd July, 1991, in which besides referring to the cases of *Niaz* and *Nazir* reference has been made to *Shoe Swarup v. King-Emperor* AIR 1934 Privy Council 227 (1), *Ahmed v. The Crown* PLD 1951 Federal Court 107, *Abdul Majid v. Superintendent of Legal Affairs, Government of Pakistan* PLD 1964 SC 426, *Ghulam Mohammad v. Mohammad Sharif and another* PLD 1969 SC 398, *Faizullah Khan v. The State* 1972 SCMR 672, *Khalid Sahgal v. The State* PLD 1962 SC 495, *Gul Nawaz v. The State* 1968 SCMR 1182, *Qazi Rehman Gul v. The State* 1970 SCMR 755, *Abdul Rasheed v. The State* 1971 SCMR 521, *Billu alias Inayatullah v. The State* PLD 1979 SC 956. The principles of considering the acquittal appeal have been stated in *Ghulam Sikandar's* case which are as follows:-

"However, notwithstanding the diversity of facts

and circumstances of each case, amongst others, some of the important and consistently followed principles can be clearly visualised from the cited and other cases-law on the question of setting aside an acquittal by this Court. They are as follows:-

(1) In an appeal against acquittal the Supreme Court would not on principle ordinarily interfere and instead would give due weight and consideration to the findings of Court acquitting, the accused. This approach is slightly different than that in an appeal against conviction when leave is granted only for the reappraisal of evidence which then is undertaken so as to see that benefit of every reasonable doubt should be extended to the accused. This difference of approach is mainly conditioned by the fact that the acquittal carries with it the two well accepted presumptions: One initial, that till found guilty, the accused is innocent; and two that again after the trial a Court below confirmed the assumption of innocence.

(2) The acquittal will not carry the second presumption and will also thus lose the first one if on points having conclusive effect on the end result the Court below: (a) disregarded material evidence; (b) misread such evidence; (c) received such evidence illegally.

(3) In either case the well-known principles of reappraisal of evidence will have to be kept in view when examining the strength of the views expressed by the Court below. They will not be brushed aside lightly on mere assumptions keeping always in view that a departure from the normal principle must be necessitated by obligatory observances of some higher principle as noted above and, for no other reason.

(4) The Court would not interfere with acquittal merely because on reappraisal of the evidence it comes to the conclusion different from that of the Court acquitting the accused provided both the conclusions are reasonably possible. If, however, the conclusion reached by that Court was such that no reasonable person would conceivably reach the same and was impossible then this Court would interfere in exceptional cases on overwhelming proof resulting in conclusion and irresistible conclusion; and that too with a view only to avoid grave miscarriage of justice and for no other purpose. The important test visualized in these cases, in this behalf was that the finding sought to be interfered with, after scrutiny under the foregoing searching light, should be found

wholly as artificial, shocking and ridiculous."

13. In another case of State/Government of Sindh through Advocate General Sindh, Karachi v. Sobharo (1993 SCMR 585), it is held as follows.

"14. We are fully satisfied with appraisal of evidence done by the trial Court and we are of the view that while evaluating the evidence, difference is to be maintained in appeal from conviction and acquittal and in the latter case interference is to be made only when there is gross misreading of evidence resulting in miscarriage of justice. Reference can be made to the case of Yar Muhammad and others v. The State (1992 SCMR 96). In consequence this appeal has no merits and is dismissed."

14. It is settled law that a judgment of acquittal should not be interjected until findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous. The scope of interference in appeal against acquittal is narrow and limited because in an acquittal the presumption of the innocence is significantly added to the cardinal rule of criminal jurisprudence as the accused shall be presumed to be innocent until proved guilty. In other words, the presumption of innocence is doubled as held by the Honourable Supreme Court of Pakistan in the case of The State and others v. Abdul Khaliq and others (PLD 2011 Supreme Court 554). The relevant para is reproduced hereunder:-

"16. We have heard this case at a considerable length stretching on quite a number of dates, and with the able assistance of the learned counsel for the parties, have thoroughly scanned every material piece of evidence available on the record; an exercise primarily necessitated with reference to the conviction appeal, and also to ascertain if the conclusions of the Courts below are against the evidence on the record and/or in violation of the law. In any event, before embarking upon scrutiny of the various pleas of law and fact raised from both the sides, it may be mentioned that both the learned counsel agreed that the criteria of interference in the judgment against ' acquittal is not the same, as against cases involving a conviction. In this behalf, it shall be relevant to mention that the following precedents provide a fair, settled and consistent view of the superior Courts about the rules which should be followed in such cases; the dicta are:

Bashir Ahmad v. Fida Hussain and 3 others (2010 SCMR 495), Noor Mali Khan v. Mir Shah Jehan and another (2005 PCr.LJ 352), Imtiaz Asad v. Zain-ul-Abidin and another (2005

PCr.LJ 393), Rashid Ahmed v. Muhammad Nawaz and others (2006 SCMR 1152), Barkat Ali v. Shaukat Ali and others (2004 SCMR 249), Mulazim Hussain v. The State and another (2010 PCr.LJ 926), Muhammad Tasweer v. Hafiz Zulkarnain and 2 others (PLD 2009 SC 53), Farhat Azeem v. Asmat ullah and 6 others (2008 SCMR 1285), Rehmat Shah and 2 others v. Amir Gul and 3 others (1995 SCMR 139), The State v. Muhammad Sharif and 3 others (1995 SCMR 635), Ayaz Ahmed and another v. Dr. Nazir Ahmed and another (2003 PCr.LJ 1935), Muhammad Aslam v. Muhammad Zafar and 2 others (PLD 1992 SC 1), Allah Bakhsh and another v. Ghulam Rasool and 4 others (1999 SCMR 223), Najaf Saleem v. Lady Dr. Tasneem and others (2004 YLR 407), Agha Wazir Abbas and others v. The State and others (2005 SCMR 1175), Mukhtar Ahmed v. The State (1994 SCMR 2311), Rahimullah Jan v. Kashif and another (PLD 2008 SC 298), 2004 SCMR 249, Khan v. Sajjad and 2 others (2004 SCMR 215), Shafique Ahmad v. Muhammad Ramzan and another (1995 SCMR 855), The State v. Abdul Ghaffar (1996 SCMR 678) and Mst. Saira Bibi v. Muhammad Asif and others (2009 SCMR 946).

From the ratio of all the above pronouncements and those cited by the learned counsel for the parties, it can be deduced 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. It has been categorically held in a plethora of judgments that 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. Moreover, in number of dictums of this Court, it has been categorically laid down that such judgment should not be interjected until the findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous (Emphasis supplied). The Court of appeal should not interfere simply for the reason that on the re-appraisal 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. It is averred in *The State v. Muhammad Sharif* (1995 SCMR 635) and *Muhammad Ijaz Ahmad v. Raja Fahim Afzal and 2 others* (1998 SCMR 1281) that the Supreme Court being the final forum would be chary and hesitant to interfere in the findings of the Courts below. It is, therefore, expedient and imperative that the above criteria and the guidelines should be followed in deciding these appeals.”

15. For the above stated reasons finding of acquittal recorded by the trial court is neither artificial nor ridiculous. In our considered view there is no merit in the appeal against acquittal. Acquittal recorded by trial Court in favour of respondent/accused is based upon sound reasons, which requires no interference. As such, the appeal against acquittal being without merits was dismissed by our short order dated 09.04.2018 and these are the reasons whereof.

JUDGE

JUDGE

Tufail