

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Crl. Acq. Appeal No. 120 of 2022.

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Date	Order with signature of Judge
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1. For orders on M.A. No. 2360 of 2022 (U/ A)
2. For orders on M.A. No. 2361/2022 (Ex./ A)
3. For orders on office objection a/w reply at flag "A".
4. For orders on M.A No. 2462/2022 (Stay/ A)
5. For hearing of main case.

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25<sup>th</sup> February 2022

Mr. Muhammad Ilyas Khan Tanoli, advocate for the appellant.

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- 1) Urgency granted.
- 2-5) Heard and perused record.

Since, this is an *appeal*, thereby challenging acquittal by a competent court of law, hence at the outset, it would be relevant to reaffirm the well-settled principle of *Criminal Administration of Justice* that '*in Criminal trial every person is innocent unless proven guilty and upon acquittal by a competent jurisdiction such presumption doubles*'. Such earned double presumption of *innocence* would not be disturbed unless and until it is established that impugned judgment was *prima facie* shocking, perverse and illegal thereby resulting into grave miscarriage of justice.

Keeping above settled proposition of law, it would be conducive to refer relevant portions of the impugned judgment, as referred by the trial judge, which are that:-

"x. **Mst. Suraiya Parveen (PW-3)**, eye witness deposed during examination-in-chief that "We reached in the street we saw mob of people including relatives of complainant were available there; the complainant and her daughters were crying; one party (whose name later known Akbar, his wife and sons) were assaulting the complainant party. Whereas, in cross examination she admitted that "It is fact that complainant had disclosed me that she had been assaulted by accused Akbar and his sons. It is correct to suggest that I had not witnessed specific role of each accused in committing each offence" hence testimony of the complainant is self contradictory in nature hence cannot be relied upon. Besides, **Mst. Aqeela (PW-3)**, eye witness, deposed during cross examination that "It is fact that I had not witnessed the accused breaking lock of the door".

xi. Admittedly, the Complainant is the real sister of accused Mst. Shabana and PW Muhammad Hanif is the real brother of the accused Muhammad Akbar and the actual bone of contention between them is the disputed property, as such the Civil litigation is pending between the parties before the 5<sup>th</sup> Senior Civil Judge Karachi-South hence the motive for implicating the accused person is available on record hence could not be ruled out.

16. It is settled law that to disbelieve the evidence of the witnesses, it is not necessary that there should be numerous infirmities. Even if there was one such infirmity which impeached the credibility of witnesses, same could make the entire statement doubtful. Conviction must be based on unimpeachable evidence and certainty of guilt; and any doubt arising in the prosecution case must be resolved in favour of accused. In forming this view I am supported by the case law reported as Mohammad Akram v. The State (**2009 SCMR 230**) wherein it was held by the Honourable Supreme Court as follows:

**(c) Criminal trial---**

“--Benefit of doubt--Principles--For giving the benefit of doubt it is not necessary that there should be many circumstances creating doubts-Single circumstances creating reasonable doubt in a prudent mind about the guilt of accused makes him entitled to its benefit, not as a matter of grace and concession, but as a matter of right.”

Perusal of above reflects that this is not a judgment to be termed as shocking, perverse and illegal, which requires interference by this Court. Hence, this is not a case to reverse the judgment and convict the accused persons and admittedly, dispute is between the family members, as accused is sister of appellant. Accordingly, Instant Criminal Acquittal Appeal stands dismissed alongwith listed applications.

J U D G E