

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

Criminal Acquittal Appeal No.S-70 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For order on M.A. No.3279/2022.
	2. For orders on office objection.
	3. For hearing of main case.

**08.04.2022.**

Mr. Parshotam K. Khatri, Advocate for the appellant/complainant.

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**IRSHAD ALI SHAH, J.-** The appellant by way of instant criminal acquittal appeal has impugned an order dated 22.02.2022 whereby the private respondents have been acquitted of the offence punishable under sections 392, 506(2) and 34 P.P.C for allegedly robbing the appellant of his mobile phone and other belongings after keeping him under fear of death by learned Civil Judge & Judicial Magistrate Samaro.

It is contended by learned counsel for the appellant that learned Trial Magistrate has recorded acquittal of the private respondents on the basis of evidence of the appellant without recording evidence of rest of the witnesses; therefore, such acquittal is liable to be examined by this Court.

Heard arguments and perused the record.

The acquittal of the private respondents has been recorded on a direct complaint; therefore, it was to have been impugned after obtaining special leave to appeal in terms of section 417 (2) Cr.P.C. No such leave is obtained by the appellant prior to filing of instant criminal acquittal appeal. The direct complaint has been filed by the appellant with a delay of about one month. No

explanation to such delay has been offered by him. The law permits acquittal of the accused at any stage of the trial when no probability or possibility of the accused of his conviction is noticed. In these circumstances, learned trial Magistrate was right to record acquittal of the private respondents which is not found arbitrary or cursory to be interfered with by this Court.

In case of *State and others vs. Abdul Khaliq and others (PLD 2011 SC-554)*, it has been observed 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”.*

In view of the facts and reasons discussed above, instant criminal acquittal appeal is dismissed in *limine*, together with listed application.

**J U D G E**

Muhammad Danish\*