

**IN THE HIGH COURT OF SINDH CIRCUIT COURT  
HYDERABAD**

Criminal Acquittal Appeal No.S-49 of 2023

Appellant: Mst. Ghulam Zohra, through Syed Akhtar  
Ali Shah, Advocate.

Respondents: No notice was issued.

Date of hearing: 03.04.2023.

Date of Judgment: 03.04.2023.

**J U D G M E N T**

**AMJAD ALI SAHITO, J.** Being aggrieved and dissatisfied with the judgment dated 15.02.2023, passed by the learned 1<sup>st</sup> Additional Sessions Judge, Mirpurkhas in Sessions Case No.364/2022 arising out of the FIR No.32/2022 for offence under sections 316, 322, PPC registered at PS Mehmoodabad, District Mirpurkhas whereby the respondents No.1&2 were acquitted from the charge.

**2.** The allegations as leveled by the complainant are that his son Abdul Majeed committed suicide by drinking black stone due to threats and pressure by the respondent/accused Muzamil on an issue arising out of an allegation of his phone chitchat with a girl, the relative of said Muzamil and son of complainant expired, as such, the instant case was lodged.

**3.** Learned counsel for appellant/complainant submits that the witnesses were not examined and flimsy grounds accused have been acquitted by the learned trial Court. He submits that the learned trial Court has erroneously acquitted the respondents without applying judicious mind. He prayed for setting aside the impugned judgment so also conviction and sentence to the respondents.

**4.** Heard and perused.

**5.** From perusal of the record, it appears that charge was framed against the accused and two witnesses complainant namely Mst. Ghulam Zuhran Lashari and I.O. ASI Muhammad Yaqoob Chandio were examined. The learned trial Court has elaborately discussed in the impugned judgment. The learned trial Court point framed as to whether the present accused committed the alleged crime and discussed, the same is reproduced as under:-

“Admittedly the alleged incident is un-witnesses one and even complainant, who is mother of the deceased is not eye witness of the alleged incident of issuing threats of extending pressure by the accused to her son as alleged or otherwise, thus complainant failed to prove that her son committed suicide due to threats and pressure by the accused as alleged or otherwise. Moreover, I.O. also failed to collect any tangible piece of evidence to connect the accused with the alleged crime at all. Even otherwise, prosecution itself is also of pinion that no offence punishable under sections 315 (Qatl shibh-e-amd) or 322 PPC (qatl-bis-sabad) has been committed. As such, prosecution failed to prove truth of charge against the present accused in accordance with law and case against them both who otherwise are juvenile has become highly doubtful entitling them to acquittal as a matter of right.”

**6.** Further, I.O. of the case also deposed before the learned trial Court that he has not collected tangible evidence against accused persons, as such, he has disposed of the case under cancel “C” class after getting permission from high ups.

**7.** It is also relevant to mention here that the criterion of interference in the judgment against acquittal is not the same as against the cases involving a conviction. The scope of interference in an appeal against acquittal is narrow and limited for the reasons that 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. In such a situation, I have no hesitation to observe that impugned judgment is speaking one and elaborate which does not suffer

from any illegality, gross irregularity and infirmity; hence, it does not require any interference by this Court. It is settled law that if a simple circumstance creates reasonable doubt in a prudent mind about the guilt of the accused, then he will be entitled to such benefit not as a matter of grace and concession but as a matter of right. Reliance in this regard is placed on the cases of *TARIQ PERVEZ v. THE STATE* (1995 SCMR 1345), *MUHAMMAD SAEED v. THE STATE* (2008 P.Cr.L.J. 1752), *GHULAM MURTAZA v. THE STATE* (2010 P.Cr.L.J. 461), *MOHAMMAD MANSHA v. THE STATE* (2018 SCMR 772).

**8.** It is not out of context to make here necessary clarification that an appeal against acquittal has distinctive features and the approach to deal with the appeal against conviction is distinguishable from the appeal against the acquittal because the presumption of double innocence is attached in the later case. Order of acquittal can only be interfered with, if it is found on its face to be capricious, perverse, and arbitrary in nature or based on a misreading, non-appraisal of evidence or is artificial, arbitrary and lead to a gross miscarriage of justice. Mere disregard of technicalities in a criminal trial without resulting injustice is not enough for interference in the judgment of acquittal gives rise to a strong presumption of innocence rather double presumption of innocence is attached to such an order. While examining the facts in the order/Judgment of acquittal, substantial weight should be given to the findings of the lower Courts, whereby accused were exonerated from the commission of crime as held by the Apex Court in the case of *MUHAMMAD IJAZ AHMAD v. FAHIM AFZAL* (1998 SCMR 1281) and *JEHANGIR v. AMINULLAH AND OTHERS* (2010 SCMR 491). It is also a settled principle of law as held in a plethora of case law that acquittal would be unquestionable when it could not be said that acquittal was either perverse or that acquittal judgment was improper or incorrect as it is settled that whenever there is doubt about guilt of accused, its benefit must go to him and Court would never come to the rescue of prosecution to fill-up the lacuna appearing

in evidence of prosecution case as it would be against established principles of dispensation of criminal justice.

**9.** Suffice it to say that there is hardly any improbability or infirmity in the impugned judgment of acquittal recorded by the learned trial Court, which is based on sound and cogent reasons that do not warrant any interference by this Court. The appellant has miserably failed to establish extraordinary reasons and circumstances, whereby the acquittal judgment recorded by the trial Court may be interfered with by this court.

**10.** This is a Criminal Acquittal Appeal and I cannot lose sight of the doctrine of double innocence, which is attached to such proceedings. Consequently, the instant Criminal Acquittal Appeal is **dismissed** in limine.

**JUDGE**