

IN THE HIGH COURT OF SINDH, BENCH AT SUKKURCriminal Acquittal Appeal No.S- 103 of 2023

Appellant/complainant: Gul Muhammad son of Fazul Muhammad bycaste Solangi, R/O village Malhirani Solangi, Taluka Sobhodero, District Khairpur.

Through Mr. Nisar Ahmed Kanasiro, advocate.

Private respondents : Not on notice.

Date of hearing : 23-10-2023.

Date of decision : 23-10-2023.

JUDGMENT

IRSHAD ALI SHAH, J.- It is alleged that the private respondent with rest of the culprits after having formed an unlawful assembly and in prosecution of its common object, committed mischief by setting the hut of appellant on fire, thereby 200 mounds chaff and 100 mounds of Juwar sustained damage, for that the present case was registered. On conclusion of trial, the private respondents were acquitted by Additional Sessions Judge Gambat vide judgment dated 05-09-2023, which the appellant has impugned before this Court by preferring the instant Crl. Acquittal Appeal.

2. It is contended by learned counsel for the appellant that the learned trial Court has recorded acquittal of the private respondents on the basis of improper assessment of evidence; therefore their acquittal is to be examined by this Court.

3. Heard arguments and perused the record.

4. The FIR of the incident has been lodged with delay of about 03 days; such delay having not been explained plausibly could not be over looked. The parties are already disputed over

plot. No illegality is pointed out in the impugned judgment of the acquittal which may justify this Court to make interference it.

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

6. In view of the facts and reasons discussed above, instant criminal acquittal appeal fails and it is dismissed in limine along with listed applications.

J U D G E