

IN THE HIGH COURT OF SINDH, BENCH AT SUKKURCriminal Acquittal Appeal No.S- 89 of 2022

Appellant/complainant: Muhammad Pannah son of Arab Khan, bycaste Tnawari, R/O village Ial Dino Katoo, Taluka Pano Aqik, District Sukkur.

Through Mr. Nusrat Husain Memon, 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 respondents after having formed an unlawful assembly and prosecution of its common object, caused injuries to the appellant and his witnesses and then went away after insulting and threatening them of murder, for that the present case was registered; on conclusion of trial, they were acquitted by Ist Civil Judge & Judicial Magistrate, Pano Akil vide judgment dated 13-06-2022, 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 Magistrate has recorded acquittal of the private respondents on the basis of improper assessment of evidence; therefore his 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 14 days; that too after having a recourse u/s 22 A/B Cr. P.C; such delay having not been explained plausibly could not be over looked. The parties are already disputed over harap of

landed property. 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.

JUDGE

