

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Acquittal Appeal No. 106 of 2023**

*(Muhammad Sharafat Hussain v. the XIII Judicial Magistrate MTC East Karachi and another)*

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on MA No.2104/2023
- 2. For hearing of main case

**20.05.2024**

Appellant in person  
Mr. Yousuf Khan Sherwani, advocate for the private respondent  
Ms Rubina Qadir, DPG for the State

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It is alleged by the appellant that the private respondent with one more culprit in furtherance of their common intention maltreated him. Based on such allegations, he lodged an FIR with PS Shah Faisal Colony. The private respondent joined the trial and on conclusion whereof was acquitted by learned XIIIth- Judicial Magistrate/MTMC Karachi East vide Judgment dated 16.01.2023, which is impugned by the appellant before this Court by preferring the instant acquittal appeal.

2. It is contended by the appellant that the learned trial Magistrate has recorded the acquittal of the private respondent, based on the improper assessment of the evidence, therefore, his acquittal is to be substituted by this court with conviction, which is opposed by the learned DPG for the State and learned counsel for the private respondent by supporting the impugned judgment.

3. Heard arguments and perused the record.

4. The FIR of the incident has been lodged with a delay of more than two months, yet it does not contain the name of the private respondent; it

was disclosed by the appellant at a later stage by making 161 Cr.PC statement; such statement could hardly be treated as part of FIR. In these premises, the learned trial Magistrate was right to record the acquittal of the private respondent by extending him the benefit of the doubt; such acquittal is not found arbitrary/cursory to be interfered with by this Court.

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

6. Having discussed above, the instant Acquittal Appeal fails and it is dismissed accordingly.

JUDGE