

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Acquittal Appeal No. D- 24 OF 2022

Before:

Mr. Justice Irshad Ali Shah
Mr. Justice Zulfiqar Ali Sangi

The appellant **The State through** Additional Prosecutor
General Sindh, Mr. Shafi Muhammad
Mahar Deputy, Prosecutor General.

The Respondent. Nemo.

Date of hearing : 15-02-2024.
Date of decision : 15-02-2024.

J U D G M E N T

IRSHAD ALI SHAH, J.-. It is alleged that by the prosecution that the private respondent was found in possession of 1500 grams of charas in shape of six pieces by the police party of PS B-Section Khairpur led by ASI Imam Dino Maitlo, for that he was booked and reported upon. On conclusion of the trial, he was acquitted by learned Ist Additional Sessions Judge/(MCTC) Special Judge (CNS) Khairpur vide judgment dated 14-02-2022, which the *State* has impugned before this Court by preferring the instant CrI. Acquittal Appeal.

2. It is contended by learned DPG for the State the learned trial Court has recorded acquittal of the private respondent ignoring the recovery of charas from him; therefore, his acquittal is to be examined by this Court by way of instant CrI. Acquittal Appeal.

3. Heard arguments and perused the record.

4. There is no independent witness to the incident. The Charas when was produced before the Court at trial was found to be in shape of five pieces; when it was recovered was in shape of six pieces; such inconsistency could not be over looked. Almost, all the documents produced at trial were prepared by WPC Ghulam Sarwar, he has not been examined by the prosecution for no obvious reason, his non-examination being author of material documents could not be over looked. In these circumstances, learned trial Court was right to record acquittal of the private respondent,

which is not found arbitrarily or cursory to be interfered with by this Court by way of instant CrI. Acquittal Appeal.

5. In case of *State & others vs. Abdul Khaliq & 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 actual infirmities”.

6. In view of above, instant criminal acquittal appeal fails and is dismissed accordingly.

JUDGE

UDGE