

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Acquittal Appeal No.S-114 of 2023

The appellant Raheem Bux sonof Muhammad Murad
Soomro **through** Mr. Ateeq-ur-Rahman
Soomro advocate.

The Respondents Not on notice.

Date of hearing : 27-02-2024.
Date of decision : 27-02-2024.

JUDGMENT

IRSHAD ALI SHAH, J.-. The appellant by way of instant CrI. Acquittal Appeal has impugned the judgment dated 23-09-2023 passed by learned Ist Judicial Magistrate Sukkur, whereby he has acquitted the private respondent of the offence for which he was charged.

2. It is contended by learned counsel for the appellant that learned trial Magistrate has acquitted the private respondent without lawful justification; therefore, his acquittal to be examined by this Court by way of instant CrI. Acquittal Appeal.
3. Heard arguments and perused the record.
4. Learned trial Magistrate by recording acquittal of the private respondent has observed in his judgment that;-

“Moreover, I/O has failed to collect CDR and subscriber detail, besides, he has failed to get the detailed forensic report of the recovered material but only obtained initial forensic report, prosecution has also failed to examine the expert who issued initial report. It is admitted fact that no forensic evidence is in field regarding allegation of uploading of nude pictures and sexually explicit photos of the female family members of the complainant as alleged, as such Ghulam Murtaza Abbasi the Assistant Forensic Expert FIA CCRC Sukkur has stated in his observation that family female pictures in different folders in laptop’s hard driver were found, however, the detailed forensic analysis of mobile phone and said laptop may require if necessary for further enquiry but the I/O has failed to get the detailed forensic report of the mobile phone and laptop regarding uploading of

family photographs and other sexually explicit photos and objectionable comments over the alleged fake ID made by the accused. Hence, these all infirmities have made this whole episode doubtful.

5. The acquittal of the private respondent is based on well-reasoned observation; it is not found arbitrarily or cursory to be interfered with by this Court by way of instant CrI. Acquittal Appeal.

6. 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”.

7. In view of above, instant criminal acquittal appeal fails and it is dismissed in limine.

JUDGE