

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Criminal Acquittal Appeal No.S-27 of 2024
(Dilshad Ahmed Shaikh Vs. The State and another)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For Orders on office objection.
2. For Orders on MA No. 1086/2024 (Ex./A).
3. For hearing of main case.

15-04-2024.

Mr. Muhammad Qayyum Arain, advocate for the appellant.
The respondents are not on notice.

1. Over ruled.
2. Granted subject to all just legal exceptions.
3. It is alleged by the appellant that the private respondent issued a cheque in his favour dishonestly; it was bounced by the concerned Bank when was presented there for encashment. On the basis of such allegation, he lodged an FIR. On conclusion of trial, the private respondent was acquitted by learned Ist Judicial Magistrate, Pano Aqil vide judgment dated 30-01-2024, 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 learned trial Magistrate has acquitted the private respondent on the basis of minor inconsistencies ignoring his admission for issuance of subject cheque; therefore, his acquittal is to be examined by this Court by way of instant Crl. Acquittal Appeal.
3. Heard arguments and perused the record.
4. The FIR of the incident has been lodged with delay of about three days; such delay having not been explained plausibly could not be overlooked. The parties were having a business transaction with each other.

The admission of the private respondent for issuance of cheque is only to the extent that it has been misused by the appellant which was issued in his favour with regard to earlier transaction. In these circumstances, learned trial Magistrate was right to record the acquittal of the private respondent by extending him benefit of doubt; it 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 it is dismissed in limine.

JUDGE