

**IN THE HIGH COURT OF SINDH,  
BENCH AT SUKKUR.**

Criminal Acquittal Appeal No.S-70 of 2024

Date of hearing: 24.10.2024

Date of decision: 24.10.2024

**Appellant:-** Muhammad Akhtar, through Mr. Shabbir Ali Bozdar,  
Advocate

**JUDGMENT**

**ZULFIQAR ALI SANGI, J.-** Through this Criminal Acquittal Appeal, the appellant/complainant has assailed the judgment dated 27.04.2024, passed by Civil Judge and Judicial Magistrate-I, Kandiaro, in Criminal Case No.35/2023, outcome of FIR bearing Crime No.244/2022, under Sections 506-(ii), 337-H(ii), 337-F(iii), 114, 147, 148, 149 and 504 PPC, registered at PS Kandiaro, District Naushahro Feroze, whereby the private respondents/accused have been acquitted by extending them benefit of doubt.

**2.** The brief facts of the case are that on 14-11-2022, complainant Muhammad Akhtar registered the above FIR in respect of an offence alleged to have taken place on 12.11.2022. He has alleged that there was dispute going on over landed property with Nasir Ali Awan and others, who used to issue threats for leaving the lands. On 12.11.2022, the complainant along with his maternal nephew Raza Muhammad and cousins Muhammad Hanif came to Kandiaro with some personal work, when they were returning to their village, it was 1230 hours they reached at Baladi stop, where all of a sudden five persons appeared and intercepted them. They identified three of them as Nasir Ali, Sajid Ali and Usman Ali, while two were unknown and would be identified if seen again. Accused Nasir instigated his accomplices namely Sajid Ali and Usman and others, hence accused Nasir and Sajid made aerial firing and gave beating to complainant and then pointed their pistols upon complainant and extended murderous threats to leave the land otherwise you will be killed. Thereafter all the accused persons escaped away while making aerial firing by using abusive language. Thereafter complainant went to police station and lodged the FIR.

**3.** After full-fledged trial and hearing the parties, learned trial Court acquitted the private respondents vide impugned judgment dated 27.04.2024, hence, this criminal acquittal appeal.

**4.** Heard learned counsel for the appellant and perused the impugned judgment as well as the depositions available on record.

**5.** Perusal of the impugned judgment reflects that the learned trial court has rightly acquitted the private respondents by assigning valid reasoning and appreciation of evidence and extending them benefit of doubt mainly for the reasons that there is delay of two days in lodgment of FIR for which no plausible explanation has offered by the complainant, which gives presumption of false involvement of the private respondents after due deliberation and consultation in presence of old dispute between the complainant and the private respondents over the landed property. The trial Court has also discussed each every aspect of the case including material contradictions and improvements in the testimony of P.Ws; in the FIR, the complainant has nominated three accused persons and two were unidentified at the time of incident, but at the time of their evidence, the PWs identified all the accused by deposing that unidentified accused namely Abid and Muhammad Ayoub, were cousins of complainant, and the learned trial Court rightly held that the story of prosecution case is not appealable to a prudent mind. All these factors were fatal to the prosecution case for recording acquittal of the private respondents.

**6.** It is well settled by now that the scope of appeal against acquittal is very narrow and there is a double presumption of innocence and that the Courts generally do not interfere with the same unless they find the reasoning in the impugned judgment to be perverse, arbitrary, foolish, artificial, speculative and ridiculous as was held by the Honourable Supreme Court in the case of State Versus Abdul Khaliq and others (PLD 2011 SC 554), wherein the Hon'ble Supreme Court has held as under:-

*“From the ratio of all the above pronouncements and those cited by the learned counsel for the parties, it can be deduced 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. It has been categorically held in a plethora of judgments that 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. Moreover, in number of dictums of this Court, it has been categorically laid down that such judgment should not be interjected until the findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous (Emphasis supplied). The Court of appeal should not interfere simply for the reason that on the re-appraisal 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. It is averred in *The State v. Muhammad Sharif* (1995 SCMR 635) and *Muhammad Ijaz Ahmad v. Raja Fahim Afzal and 2 others* (1998 SCMR 1281) that the Supreme Court being the final forum would be chary and hesitant to interfere in the findings of the Courts below. It is, therefore, expedient and imperative that the above criteria and the guidelines should be followed in deciding these appeals.”*

**7.** For what has been discussed above is that the learned trial Court has committed no illegality or irregularity while recording acquittal of the private respondents/accused by way of impugned judgment, which even otherwise does not call for any interference by this Court by way of instant Criminal Acquittal Appeal, the same fails and is dismissed accordingly together with listed application.

**J U D G E**

ARBROHI