

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Acquittal Appeal No. S-79 of 2024

Nazar Muhammad.....Appellant
Versus.
The State & others..... Respondents

Mr. Alam Sher Bozdar, Advocate for the Appellant.
Syed Sardar Ali Shah, Additional P.G for the State.

Date of Hearing: **20-02-2025**
Date of Decision: **20-02-2025**

J U D G M E N T

RIAZAT ALI SAHAR J., The instant criminal acquittal appeal has been preferred against the judgment dated 01-06-2024, passed by the learned Civil Judge & Judicial Magistrate-I, Rohri, in Criminal Case No. 01 of 2023, arising out of a criminal direct complaint filed by the appellant under sections 392, 506(2), 504, 452, and 34 of the Pakistan Penal Code (PPC). By virtue of the impugned judgment, the respondents/accused were acquitted of the charge.

2. The charge against the private respondents/accused is that on 26-01-2023, at approximately 1700 hours, they committed house trespass after making prior preparations for an assault and wrongful restraint. It is further alleged that they committed robbery, unlawfully taking away a cash amount, gold ornaments, and valuable documents. Additionally, the accused are charged with intentionally insulting the complainant party and issuing murderous threats, thereby instilling fear and intimidation.

3. Charge was framed against the respondents, to which they pleaded not guilty and claimed trial. Thereafter, prosecution led

evidence of prosecution witnesses and recorded statements of accused in terms of section 342 CrPC and after hearing the parties vide impugned judgment acquitted the respondents of the charge.

4. The learned counsel for the appellant argued that there was sufficient evidence on record connecting the private respondents with the commission of the offence; however, the learned trial court illegally acquitted them of the charge. It was contended that the trial court failed to take into consideration the heinous nature of the offence and overlooked material evidence supporting the prosecution's case. Furthermore, the learned counsel submitted that the respondents failed to create any reasonable doubt or dent in the prosecution's case, yet the trial court unlawfully and without any justifiable reason acquitted them. It was further argued that the trial court, while extending the benefit of acquittal to the respondents, failed to record any cogent or well-reasoned findings, thereby rendering the impugned judgment legally unsustainable.

5. On the other hand, learned Additional P.G for the State supported the impugned judgment.

6. Having given due consideration to the arguments advanced by the learned counsel for the appellant as well as the learned Additional Prosecutor General for the State, and upon a careful perusal of the case record, I have arrived at the considered conclusion that the respondents/accused have been rightly acquitted by the learned trial Court. It is evident that the appellant's version is not consistent with that of his own witnesses, as there exist glaring contradictions in their testimonies on material points. According to the memorandum of the Criminal Direct Complaint, a robbery involving a substantial sum of Rs. 50,00,000/- was allegedly committed at the appellant's

residence. However, the complainant has failed to produce any documentary evidence to substantiate his claim that he had lawfully acquired such an amount through the sale of immovable or movable property. Furthermore, it has also been alleged that gold ornaments weighing five tolas were taken away by the accused persons, yet no receipt or corroborative evidence has been furnished to establish that such gold was present in the complainant's house at the relevant time. The contradictions between the appellant's version, as set forth in his Criminal Direct Complaint, and the evidence adduced by him and his witnesses have materially weakened the prosecution's case. This substantial inconsistency has created a serious doubt, which must necessarily be resolved in favour of the accused in accordance with the settled principle of *benefit of doubt*. The learned trial Court, after due appreciation of the evidence and legal principles, has rightly extended the said benefit to the accused and acquitted them of the charge.

7. In view of the foregoing circumstances, I am of the considered opinion that the prosecution has failed to establish the guilt of the respondents beyond reasonable doubt. Consequently, the learned trial Court had no option but to acquit the private respondents of the charge. The trial Court, upon a thorough appraisal of the material available on record and after duly considering all legal as well as factual aspects of the case, has rendered a comprehensive and well-reasoned judgment. Furthermore, the learned counsel for the appellant has failed to point out any illegality, irregularity, misreading, or non-reading of evidence in the impugned judgment that would warrant interference by this Court.

8. The Hon'ble Supreme Court of Pakistan in case of Haji Paio Khan v. Sher Biaz and others (2009 SCMR 803)

has been pleased to observe as under:

"It needs no reiteration that when an accused person is acquitted from the charge by a Court of competent Jurisdiction then, double presumption of innocence is attached to its order, with which the superior Courts do not interfere unless the impugned order is arbitrary, capricious, fanciful and against the record".

9. In light of the foregoing discussion, I am of the considered view that no grounds for interference in the impugned judgment have been made out. Consequently, the instant Criminal Acquittal Appeal, being devoid of merit, **stands dismissed.**

JUDGE

Ahmad