

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

**Crl. Acquittal Appeal No.S-127 of 2024**

Riaz Hussain.....Appellant  
Versus.  
Muhammad Shareef and others..... Respondents

Mr. Muhammad Nasir Malik, Advocate for the Appellant.  
Mr. Mian Mumtaz Rabbani, Advocate for private respondents.  
Syed Sardar Ali Shah, Additional P.G for the State.

Date of Hearing: **13-02-2025**  
Date of Decision: **28-02-2025**

**J U D G M E N T**

***RIAZAT ALI SAHAR J.***, The instant Criminal Acquittal Appeal has been preferred against the judgment dated 03.10.2024, passed by the learned Additional Sessions Judge-V, Sukkur, in Criminal Appeal No. 09 of 2024, whereby the appeal filed by the private respondents/accused against their conviction and sentence, as recorded through judgment dated 08.03.2024, passed by the learned Civil Judge & Judicial Magistrate-II, Rohri, in Criminal Case No. 234 of 2022—arising out of Crime No. 109 of 2022, registered at Police Station Salehpat-Sukkur for offences under Sections 337A-I & III, 337F-I & V, 337L(ii), 447, 504, 506(2), 147, 148, 149 & 114 of the Pakistan Penal Code—was allowed, resulting in their acquittal.

2. The charge against the private respondents/accused is that on 13.10.2022 at approximately 07:30 a.m., they, while armed with a hatchet, *lathi*, and pistol, unlawfully trespassed onto the land of the complainant party, bearing Survey No. 141, situated in Deh Khabri Bhatt, and commenced ploughing the land using a tractor. It is alleged that upon being confronted, the accused became enraged and verbally abused the complainant party.

Accused Khilu, while hurling abuses, is said to have instigated his co-accused to engage in a physical altercation. Thereafter, accused Rajib Ali allegedly struck Wali Muhammad with *lathi* blows, while accused Imran inflicted an injury on the head of Hub Ali using the dagger side of a hatchet. Accused Badshah is alleged to have caused a *lathi* blow to the left eye of Hub Ali, whereas accused Rustam Ali purportedly struck the complainant on the head with a *lathi*. Additionally, accused Khilu is alleged to have inflicted a butt blow to the complainant's head. Subsequently, the accused allegedly issued threats of murder to the complainant party before fleeing the scene. As a consequence of the incident, the aforementioned FIR was registered.

3. The charge was formally framed against the respondents, to which they pleaded not guilty and claimed trial. Thereafter, the prosecution led evidence by examining its witnesses and recorded the statements of the accused in terms of Section 342 Cr.P.C Upon conclusion of the trial and after hearing the arguments of both parties, the learned trial Court, vide judgment dated 08.03.2024, convicted and sentenced the respondents. However, in the Criminal Appeal preferred by the private respondents, they were acquitted of the charge by the appellate Court through the impugned judgment.

4. The learned counsel for the appellant contended that the private respondents were rightly convicted and sentenced by the trial Court. However, despite the presence of sufficient evidence on record connecting them with the commission of the offence, they were illegally acquitted by the appellate Court. It was argued that the appellate Court failed to duly consider the heinous nature of the offence and overlooked material evidence that substantiated the prosecution's case. Furthermore, the learned counsel submitted that the respondents failed to create

any reasonable doubt or cast any dent in the prosecution's version, yet the appellate Court, without any legal justification, extended the benefit of acquittal to them. It was further argued that while granting acquittal, the appellate Court failed to record any cogent or well-reasoned findings, thereby rendering the impugned judgment legally unsustainable.

5. On the other hand, learned counsel appearing on behalf of private respondents and 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, the learned counsel for the private respondents, and 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 appellate Court. A plain reading of the evidence of the prosecution witnesses reveals glaring contradictions regarding the nature of the weapons allegedly possessed by the accused at the time of the incident, as well as the roles attributed to them and the nature of the injuries sustained. These inconsistencies, which have been duly examined and deliberated upon by the learned appellate Court, were fatal to the prosecution's case.

7. It is an admitted fact that the parties are already embroiled in a dispute concerning landed property, with relations strained due to pending litigation. A civil suit for pre-emption had been instituted by the father of the accused against the complainant party, thereby evincing the existence of prior enmity between them. Furthermore, the First Information Report (FIR) was lodged with an unexplained delay of one day, which, in the absence of a cogent justification, gives rise to a presumption of false implication of the accused after due deliberation and

consultation, in accordance with the maxim *falsus in uno, falsus in omnibus* (false in one thing, false in everything). Moreover, the prosecution has failed to produce the opinion of an ophthalmologist regarding the injuries allegedly sustained by the injured, Hub Ali, near his left eye, thereby leaving a crucial gap in the medical evidence. It has also come on record, through the testimony of Prosecution Witness-5 (PW-5), Assistant Sub-Inspector Sain Dino, during his cross-examination, that multiple residential properties are situated near the locus delicti. However, the Investigating Officer made no attempt to associate any independent witness to attest to the veracity of the alleged incident, thereby violating the principle of fair investigation. Additionally, neither were the bloodstained clothes of the injured collected by the Investigating Officer, nor was any crime weapon secured, nor was any incriminating material recovered as case property. These glaring omissions and substantial inconsistencies cast serious doubt upon the prosecution's case, which, as per the settled principle of *in dubio pro reo* (when in doubt, the accused must be given the benefit), must necessarily be resolved in favour of the accused. The learned appellate Court, upon due appreciation of the evidence and applicable legal principles, has rightly extended the benefit of doubt to the accused and consequently acquitted them of the charge. The decision, being in consonance with established jurisprudence, warrants no interference.

8. 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 appellate Court had no option but to acquit the private respondents of the charge.

The appellate 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 demonstrate any illegality, irregularity, misreading, or non-reading of evidence in the impugned judgment that would warrant interference by this Court.

9. 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".*

10. 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