IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Acquittal Appeal No. 329 of 2025

Appellant	:	Complainant Gulista through Ms. Farhat Naz Qureshi, Advocate.
Respondent No.1	:	The State through Amna Khanam, Addl. P.G Sindh.
Respondent No.2	:	None present.
Date of hearing	:	13.10.2025.
Date of short order	:	13.10.2025.
Date of reasons	:	17.10.2025

J U D G M E N T

TASNEEM SULTANA, J:– Through the instant criminal acquittal appeal, the appellant/complainant has assailed the judgment dated 10.04.2025, passed by the learned IXth Judicial Magistrate & Civil Judge, Karachi (South), whereby the respondent No.2/accused Tahir @ Tenda was acquitted of the charge in Case No.2052 of 2023 (Re: The State v. Tahir @ Tenda), arising out of FIR No.51/2023 registered at P.S. Garden, Karachi under Section 380, PPC.

2. Briefly stated, the prosecution case as narrated in the FIR is that on 23.10.2022, the accused/respondent, Tahir, who happens to be the son of complainant's sister Tasleem, came to the complainant's house. The complainant handed him Rs.2,000/- from a box and placed it back under her pillow. That box allegedly contained three gold biscuits, two pairs of earrings, four bangles, and cash amounting to Rs.350,000/-. It is alleged that when the complainant went into the kitchen and returned, she and her daughter, Mst. Nasra, saw the accused fleeing from the house with the said box. Despite their calls to stop, he ran into his mother's (Tasleem's) house and locked the door. Upon knocking, Tasleem opened the door, whereupon the complainant narrated the occurrence. However, Tasleem and her daughter Huma allegedly beat and maltreated the complainant and turned her out of the house. The complainant then approached the concerned police station for registration of the FIR, but when her request was declined, she approached the Court for necessary directions, whereafter the FIR was registered.

3. The accused/respondent No.2 pleaded not guilty to the charge framed against him and claimed trial.

4. To substantiate the accusation, the prosecution examined five witnesses namely PW-1 Mst. Gulista (complainant), PW-2 PC Riaz, PW-3 Mst. Nasra, PW-4 Bawa Miyan, PW-5 ASI Waryam, who produced certain documents in evidence, after which the learned State Counsel closed the prosecution side.

5. The statement of the accused was recorded under Section 342 Cr.P.C., wherein he denied the allegations and professed innocence. However, he neither examined himself on oath nor produced any defense evidence.

6. Upon conclusion of trial and after hearing the learned counsel for both sides, the learned trial Court acquitted the accused/respondent vide judgment dated 10.04.2025, which has now been impugned through the present appeal.

7. Learned counsel for the appellant contended that the accused/respondent was specifically named in the FIR with a clear role attributed to him; that the complainant and her daughter, who both witnessed the incident, fully supported the prosecution case during trial; and that the learned trial Court failed to properly appreciate the evidence available on record. It was further urged that there existed sufficient material connecting the accused with the commission of the offence, but the learned trial Court misread and ignored the same, thereby rendering the impugned judgment unsustainable in law.

8. Conversely, the learned Additional Prosecutor General supported the impugned judgment and submitted that the prosecution case was riddled with material contradictions, no recovery was effected, and that the findings of the trial Court were based on sound appreciation of evidence, warranting no interference by this Court.

9. I have heard learned counsel for the parties and perused the record with due care.

10. Perusal of record reveals that the alleged incident took place on 22.10.2022, whereas the FIR was lodged on 13.03.2023 i.e after an unexplained delay of almost five months. The application initially submitted by complainant to the police also bears

the date 01.11.2022, reflecting a delay of seven days in reporting the incident, which itself casts serious doubt upon the veracity of the prosecution story. The sole eyewitness, Mst. Nasra, is the complainant's real daughter. No independent witness was examined to corroborate the alleged occurrence, despite the fact that the incident allegedly took place during daytime in a residential locality. Thus, the testimony of such closely related and interested witnesses cannot be treated as wholly reliable in absence of independent corroboration, especially when recovery of stolen property is also lacking. At the trial, complainant produced a photostat copy of a receipt purportedly showing purchase of gold; however, the said document showed tampering in dates, lacked any stamp or official seal, and the original was not produced. The prosecution witness (PW-4), the broker of Sarafa Bazar who allegedly purchased the gold for the complainant, deposed that the receipt was issued months after the actual transaction merely due to complainant's insistence, a circumstance which further erodes its credibility and indicates possible fabrication at a later stage.

11. The learned trial Court, in its well-reasoned judgment, meticulously discussed the entire prosecution evidence and assigned cogent grounds for recording the acquittal. The statements of material witnesses, including the complainant and her daughter, were inconsistent on several counts including conduct of the accused at the time of the alleged theft. The prosecution failed to establish recovery of the stolen articles or to produce any independent corroborative evidence. Besides it is also noted that after release of accused/respondent No.2 Tahir @ Tenda on bail, same complainant registered another FIR vide Crime No. 62 of 2023 registered at P.S Garden under Sections 354, 337-A(i), 337-F(i), F(v), F(vi), 34 PPC wherein she implicated almost all family members of present accused also she improved her case by implicating present accused in her evidence which was challaned and after trial all the accused were acquitted by learned trial Court vide judgment dated 29.11.2023, which reflect the dishonest designs and personal grudge of complainant who wanted to fix the accused and his family by either means.

12. On cumulative assessment of these contradictions and infirmities, the Trial Court concluded that the prosecution had failed to prove its case beyond reasonable doubt and, applying the settled principle that benefit of doubt must go to the accused, acquitted the respondent. The Hon'ble Supreme Court of Pakistan in the case of

***Muhammad Riaz versus Khurram Shehzad and another (2024 SCMR 51*)** has held as under:-

> *"10. The aforesaid set of circumstances creates misgivings and suspicions regarding the presence of the prosecution witnesses at the scene of the crime, and the discrepancies and defects in the investigation and the prosecution case pointed out by the learned High Court in the impugned judgment also colors the case in doubt and improbability. Therefore, the learned High Court rightly held that the prosecution badly failed to substantiate the case against the respondent No. 1, and the learned Trial Court was not justified in convicting him on the strength of untrustworthy or uncorroborated evidence which was full of material contradictions, especially contradictions in the ocular and medical evidence. It is a well-settled exposition of law that in an appeal against acquittal, the Court would not ordinarily interfere and would instead give due weight and consideration to the findings of the Court acquitting the accused which carries a double presumption of innocence, i.e. the initial presumption that an accused is innocent until found guilty, which is then fortified by a second presumption once the Court below confirms the assumption of innocence, which cannot be displaced lightly."*

13. It is well settled by now that the scope of appeal against acquittal is very narrow and there exists a double presumption of innocence in favour of the accused, and that the Courts generally do not interfere with the impugned judgment unless they find the reasoning in the same to be perverse, arbitrary, foolish, artificial, speculative or 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."

14. It is a cardinal principle of criminal jurisprudence that the prosecution must prove its case beyond reasonable doubt, and if any reasonable doubt arises, it must be resolved in favour of the accused, not as a concession but as a right. Reliance is placed on **Tariq Pervaiz v. The State (1995 SCMR 1345), Muhammad Akram v. The State (2009 SCMR 230), and Muhammad Zafar and another v. Rustam and others (2017 SCMR 1639).**

15. In view of the foregoing discussion, I am of the considered view that the prosecution has failed to bring home the guilt of respondent/accused Tahir @ Tenda beyond the shadow of reasonable doubt. The learned trial Court has rightly extended the benefit of doubt and recorded acquittal through a reasoned judgment which does not call for any interference by this Court. Accordingly, the impugned judgment dated 10.04.2025 passed by learned trial Court was maintained and instant Criminal Acquittal Appeal was dismissed by my short order dated 13.10.2025 and these are the reasons thereof.

JUDGE

Shabir/P.S