

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA**

*Criminal Acquittal Appeal No. D- 21 of 2024*

**Before:**

***Mr. Justice Shamsuddin Abbasi.***

***Mr. Justice Ali Haider 'Ada'.***

Appellant : Amanullah S/o Muhammad Hayat Brohi  
through Mr. Abdul Rehman Bhutto,  
Advocate.

The State : through Mr. Nazeer Ahmed Bhangwar,  
Deputy Prosecutor General, Sindh

Date of Hearing : 02.09.2025.

Date of Decision : 02.09.2025.

**JUDGMENT**

**Ali Haider 'Ada'.J:-** Through this Criminal Acquittal Appeal, the appellant/complainant has assailed the order dated 22.05.2024 passed by the learned Additional Sessions Judge-I, Shikarpur in Sessions Case No.227/2020, whereby the respondents/accused were acquitted under Section 265-K, Cr.P.C. The case pertained to Crime No.36 of 2020, registered at Police Station Khanpur, for offences punishable under Sections 302, 148, and 149, PPC. Being aggrieved by the said order, the appellant has preferred the instant appeal.

2. In nutshell, the prosecution case is that on 12.03.2020 at about 1:00 pm, accused Fida Hussain (proclaimed offender), while armed with a pistol, fired upon Mst. Bakhat Bibi, whereas the other respondents/accused caused injuries to the remaining prosecution witnesses. On the basis of the said incident, the F.I.R. was lodged on 13.03.2020. After registration of the F.I.R, the Investigating Officer completed the investigation, during which some of the respondents, namely Allah Yar, Loung, and proclaimed offender Fida Hussain, were declared innocent, and a challan was submitted. Thereafter, the learned trial Court took cognizance of the case, supplied the requisite documents to the accused, and framed charge on 17.11.2020, to which the respondents pleaded not guilty and claimed trial. Consequently, the trial Court permitted the prosecution to lead its evidence.

3. In pursuance thereof, the prosecution examined Irshad Ali (Investigating Officer), the complainant Amanullah, as well as injured witness Dodo Khan and Abid Hussain. Thereafter, the learned trial Court, by invoking Section 265-K, Cr.P.C, acquitted the respondents/accused.

4. Learned counsel for the appellant contended that a prima facie case stood established against the respondents, but the learned trial Court, without properly considering the evidence, acquitted the accused and did not conduct a full-dress trial. He therefore prayed that the impugned order be set aside and the respondents be convicted.

5. On the other hand, Learned Deputy Prosecutor General for the State, submitted that the order of acquittal was passed on 22.05.2024. As per endorsement, the appellant applied for a copy of the judgment on 08.06.2024, paid the requisite costs and stamps on 26.06.2024, and the copy was supplied on 27.06.2024. The present acquittal appeal was presented before this Court on 02.07.2024. Learned DPG urged that neither the appellant nor his counsel have offered any satisfactory explanation for the delay in filing the appeal, and that this raises a legal question as to its maintainability; accordingly, the point of limitation should be decided first. On the merits, the learned State Counsel submitted that the reasons recorded by the trial Court for acquittal were cogent and did not call for interference.

6. Heard learned counsel for the appellant as well as the learned State Counsel at length and perused the record carefully.

7. The first and foremost aspect that emerges from the record is that the instant acquittal appeal was filed after the lapse of 30 days, and an extension of 10 days was sought without furnishing any plausible explanation or justification. Although the appellant has taken the plea that he had applied for a certified copy of the judgment within time, the record reveals that the requisite costs were deposited only after the prescribed period had already lapsed.

8. As per Section 417(2-A), Cr.P.C, a specific period of limitation has been provided, whereby an appeal against acquittal by a private complainant or an aggrieved party is required to be filed within thirty (30) days from the date of the order. The statutory scheme leaves no ambiguity that such limitation is mandatory in nature. In the present case, the appellant has failed to prefer the appeal within the prescribed period. Even the explanation offered with regard to the delay does not constitute sufficient cause, as the record itself demonstrates that although the application for obtaining a certified copy was moved within time, the requisite costs were deposited after expiry of the limitation period. Thus, in light of the statutory command of Section 417,

Cr.P.C, the present appeal being hopelessly barred by time is not maintainable. So far as the computation of limitation is concerned, the record reflects that the appellant was fully aware of the pendency and disposal of the case, as he was duly represented through two counsel. Therefore, the plea that he obtained the certified copy only on 27.06.2024 carries no legal force, being a matter of his own choice and convenience. The grounds urged by learned counsel are neither reasonable nor cogent. It is a well-settled maxim of law that the law assists the vigilant and not those who sleep over their rights. In the case of *State v. Mst. Irum and another* (2018 MLD 1731) and in case of *State v. Wahid* (2014 PCrLJ 265), the appeal was dismissed on an identical ground of delay without sufficient justification. Similarly, in *Sajjad Ashraf v. The State and 2 others* (2022 PCrLJ 779), as where the counsel failed to obtain the copy of the judgment within the period, the appellant could not be permitted to circumvent the limitation and go beyond its scope. The ratio laid down therein squarely applies to the present case.

9. There is no justification whatsoever explained with regard to the delay in filing of the appeal. The appellant has failed to demonstrate any plausible or convincing cause for condonation of such delay. It is a settled principle of law that where a statute prescribes a specific period of limitation, Courts are bound to apply it strictly, and the party seeking condonation must establish sufficient cause with cogent reasons. Mere negligence, inadvertence, or convenience on part of the appellant does not constitute valid ground.

10. In view of the foregoing discussion, the instant appeal is hopelessly barred by limitation. Even otherwise, no ground has been made out warranting interference with the acquittal order of the learned trial Court. Accordingly, as the appeal is ex facie time-barred, the same is hereby dismissed.

**JUDGE**

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