

IN THE HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Crl. Acquittal Appeal No.D-03 of 2025

Present:

**Mr. Justice Shamsuddin Abbasi,
Mr. Justice Muhammad Hasan (Akber).**

Appellant: Muhammad Saleem S/o Shabbir,
Through Mr. Mir Muhammad Nohri, Advocate.

Respondents: Mehar Ali and others.

Date of Hearing: **08.12.2025**

Date of Order: **08.12.2025**

J U D G M E N T

SHAMSUDDIN ABBASI, J. :- Through instant Acquittal Appeal, the appellant/complainant calls in question the judgment dated 31.01.2025 passed by the learned Anti-Terrorism Court, Mirpurkhas Division @ Mirpurkhas in Special Case No.21/2024, arising out of F.I.R No.12/2024 for offence under sections 324, 386, 114, 506(ii), 504, 337-A(i), F(i), 337-H(ii), 147, 148, 149 PPC r/w section 6/7 ATA, 1997 of P.S Ghulam Nabi Shah, whereby the respondents were acquitted. Appellant/complainant being aggrieved by impugned judgment has maintained instant appeal against acquittal of the respondents.

2. It is alleged in the F.I.R that accused persons namely Mehar Ali, Ghazi Khan, Ghulam Qadir, Rasheed and Sarwar, intercepted the complainant party near Sarhari Shakh and accused Mehar Ali allegedly struck the complainant on the head with hatchet, while Sarwar aimed another hatchet blow which hit the complainant's right hand. The complainant also alleged that the remaining accused caused him injuries with lathi blows and iron rod and that Ghulam Qadir fired in the air while the accused issued threats before leaving the place of incident. The complainant was shifted to Hospital for medical treatment and later he

returned to the Police Station and lodged FIR to the above extent. However, motive disclosed by complainant due to nonpayment of Bhatta.

3. Learned counsel for the appellant submits that the prosecution has proved its case through valid and reliable evidence connecting the respondents (accused) with the commission of offences charged with; that the witnesses produced by prosecution were consistent on each and every aspect of the matter and defence did not shatter their evidence during cross-examination; that the learned trial Court did not appreciate the evidence in line with the applicable law and based its findings on misreading and non-reading of evidence and arrived at a wrong conclusion in acquitting the respondents (accused); that the impugned judgment is bad in law and facts and liable to be set-aside and the respondents (accused) deserve to be convicted in accordance with law and, therefore, this Acquittal Appeal merits consideration.

4. We have heard the learned counsel for the appellant (complainant) and perused the record minutely.

5. The learned trial court has assigned a reason for extending benefit of doubt to the respondents, relevant portion is reproduced as under:-

“As to the allegation of demand of bhatta by the accused, it may be stated that the said allegation was vaguely made as neither complainant Muhammad Saleem nor PW Ali Sher Shah had disclosed as to on what date, at what time and which place and in whose presence and by which persons of the accused was any such demand made from them nor were the names of the other people disclosed from whom such demand, if any, was made. It may be added that a photo copy of an application addressed by Ali Sher Shah to DIG Mirpurkhas was produced during the trial but on its perusal it reveals that firstly it spoke about an incident allegedly taking place on 08.5.2024 but no report of it was apparently made to the Police of the area and the copy of application merely bore stamp without even signature of its recipient in the office of DIG much less any order by the DIG on it. Secondly in the said application though it was projected that the incident had taken place in presence of two persons Abdul Ghafoor and Amin Nohrio but none of them was examined or even cited as witness in this case. Thus the said application carried no substance. With regard to the copies of posts allegedly kept by the accused on social media referred to in the case and

produced during the trial, it may be stated that firstly the same were not received by Inspector Arshad Ali under any mashirnama and even if the same were looked at, they would not show any demand of ransom. Contrarily, its content states that Ali Sher Shah was running a den of narcotics. This in fact could give cause to Ali Sher Shah to retaliate or respond which according to learned Advocate for the accused he did by assaulting upon Mehar Ali for which FIR number eleven of two thousand twenty four was lodged by Rehmatullah brother of Mehar Ali against Ali Sher Shah, his brother and others but there was no single word about ransom in it. Thus allegation of ransom made by the complainant party was based on bald and bare word by the complainant and PW Ali Sher Shah. Moreover, both Police officers SIP Pinyal Khan and Inspector Arshad Ali in their cross examination had clearly stated that no complaint had ever been received at Police Station Ghulam Nabi Shah about bhatta against any of the present accused. Thus allegation of demand of bhatta from PW Ali Sher Shah or complainant or any other person by the accused does not stand satisfactorily proved. With regard to the cases of Mohammed Aslam Khanzada or Mohammed Shakir cited by learned Advocate for the complainant, suffice to say, in the said cases a tangible evidence about demand of bhatta was brought on record which as stated above is not produced here and thus both the said cases are no help to the prosecution.

Turning to the allegation of injuries to Muhammad Saleem allegedly caused by the accused, on careful analysis of the evidence it appears that complainant had stated that it was PW Ali Sher Shah who was blackmailed by the accused and they demanded ransom from him. However, it is noted that no injury was caused to said Ali Sher Shah. There is no allegation of one single slap caused to him or PW Ali Nawaz Mallah. Even no scratch was caused to them. Further the place of incident was on the road at Sarhari Shakh where according to the complainant or injured mashir Bhagwandandas and Inspector Pinyal Khan there were shops, hotels and flour grinding machine but no independent person was cited as witness. Further complainant Muhammad Saleem himself admitted that he was employee of PW Ali Sher Shah and thus he could not be termed an independent person. The other witness cited in the case Ali Nawaz Mallah who might have been independent was given up and not produced during trial for whom presumption could be taken that had he been examined he might not have supported the case. Furthermore, the accused resided in village Muhammad Ibrahim Samon which was said to be far off from the place of incident and it is astonishing as to how would they come to know that the complainant party would pass from Sarhari Shakh at a particular time so as to be waylaid and Ghazi Khan was said to be a zamindar and had been Chairman of Union Council of the area. Over and above it the documents produced by the accused and not disputed by the complainant party show that FIR number eleven of two thousand twenty four was registered at same Police Station Ghulam Nabi Shah against PW Syed Ali Sher Shah, his brother and others prior to the FIR of the complainant party and as pointed out by learned Advocate for the accused there was inconsistency between the medical evidence and the oral evidence on the timing of sustaining the injuries by complainant Muhammad Saleem as it was case of prosecution that the incident had taken place at 6.00 p m when the injuries were caused to Mohammed Saleem but the medical certificate revealed that he was examined at 11.10 p.m (night) and Dr. Ali

Muhammad who examined said injuries, in his evidence also stated that the duration between the examination and sustaining of injuries had been one to three hours and even if maximum margin of three hours is kept in mind it would mean that the same were caused around or after 8.00 p.m. Thus, the medical evidence was in conflict with the ocular version. Moreover the medical certificate in respect of injuries to Muhammad Saleem was challenged by accused Ghazi Khan and the said certificate was reportedly suspended by the Medical Board due to his non-appearance. This lent credence to the claim of the accused that the injuries on the person of Muhammad Saleem were prima facie manipulated. Thus allegation of prosecution about causing of injuries to the complainant by the present accused cannot be implicitly believed. For these reasons, the claim of prosecution with regard to the demand of bhatta or causing injuries by any accused to complainant Muhammad Saleem does not seem to be free from doubt”.

6. It is settled position of law as laid down in **PLD 1995 SC 34**, Tariq Bashir and others vs. The State, that if the prosecution evidence creates reasonable doubt regarding the guilt of the accused, the same is sufficient to extend benefit of doubt, even if the accused has not specifically pleaded the same. It is also a well-settled law that after earning the acquittal from the trial Court, the double presumption of innocence is earned by the accused. The Court sitting in appeal against acquittal always remains slow in reversing the judgment of acquittal, unless it is found to be arbitrary, fanciful and capricious on the face of it or is the result of bare misreading or non-reading of any material evidence. In the case of **Muhammad Mansha Kousar v. Muhammad Asghar and others (2003 SCMR 477)**, the Honourable Apex Court observed as under: -

“that the law relating to a reappraisal of evidence in appeals against acquittal is stringent in that the presumption of innocence is doubled and multiplied after a finding of not guilty recorded by a competent court of law. Such findings cannot be reversed, upset and disturbed except when the judgment is found to be perverse, shocking, alarming, artificial and suffering from error of jurisdiction or misreading, non-reading of evidence... Law requires that a judgment of acquittal shall not be disturbed even though second opinion may be reasonably possible”.

7. Similar view was reiterated by the Honourable Apex Court in the case of **Muhammad Tasaweer v. Zulkarnain and 2 others (PLD 2009 SC 53)**, in the following words:-

“Needless to emphasize that when an accused person is acquitted from the charge by a Court

of competent jurisdiction then, the 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.”

8. We do not see any illegality or material irregularity in the impugned judgment while acquitting the respondents for the commission of offence and the impugned judgment is well-founded and well-reasoned, based on proper appraisal of the evidence and thus it calls for no interference by this Court. Even otherwise, it is re-iterated that the acquittal recorded by the Court of competent jurisdiction, would not be disturbed until there is any misreading or non-reading of the evidence resulting in miscarriage of justice, which, as elaborated above, has not been noticed here. Consequently, the instant Criminal Acquittal Appeal is **dismissed** in *limine* accordingly. These are the reasons of short order dated 08.12.2025.

JUDGE

JUDGE

Faisal