

**IN THE FEDERAL SHARIAT COURT**  
(APPELLATE JURISDICTION)

**PRESENT:**

**MR. JUSTICE DR. SYED MUHAMMAD ANWER**  
**MR. JUSTICE KHADIM HUSSAIN M. SHAIKH**

**CRIMINAL APPEAL NO.03-K OF 2019**

GHULAM SARWAR SON OF PUNHOON KHAN CHOPAN,  
RESIDENT OF VILLAGE CHOPAN TALUKA UMERKOT DISTRICT  
UMERKOT.

Appellant

VERSUS

- 1.KHUDA BUX SON OF MIR MUHAMMAD
- 2.MUHAMMAD IBRAHIM SON OF MIR MUHAMMAD
- 3.ABDUL RAHEEM SON OF NOOR MUHAMMAD
- 4.MUHAMMAD SALEH SON OF NOOR MUHAMMAD
- 5.MASTER JEANDO SON OF SHAFI MUHAMMAD
- 6.MUHAMMAD HANIF SON OF MIR MUHAMMAD
- 7.SANWAL SON OF MIR MUHAMMAD
- 8.MUHAMMAD SAJJAN SON OF MIR MUHAMMAD
- 9.HABIBULLAH SON OF MIR MUHAMMAD
- 10.THE STATE.

Respondents

Counsel for the Appellant	:	Syed Tariq Ahmed Shah, Advocate.
Counsel for the Respondents	:	Mr. Abdul Rasheed Rajar, Advocate.
Counsel for the State	:	Mr. Zahoor Shah, Additional Prosecutor General, Sindh.
FIR No., Date and Police Station	:	03/2009, 06.01.2009, Khipro.
Date of Impugned Judgment	:	27.02.2019
Date of Institution	:	18.04.2019
Date of Hearing	:	05.11.2021
Date of Judgment	:	24.12.2021

## J U D G M E N T

**Khadim Hussain M. Shaikh –J.** The captioned Criminal Appeal, is directed against judgment dated 27.02.2019, passed by the learned Additional Sessions Judge Khipro in Sessions Case No.61 of 2009 (old)/ Sessions Case No.30 of 2015 (new) re-The State vs Khuda Bux and others, emanating from F.I.R No.03 of 2009 registered at Police Station Khipro, for Offences under Section 364, 302, 337-H (ii), 337-F(i), 506 (2), 147, 148, 149 of The Pakistan Penal Code, 1860 (XLV of 1860) (**“The Penal Code”**) and Section 17 (3) of The Offences Against Property (Enforcement of Hudood) Ordinance, 1979, (**“The Ordinance”**), whereby the respondents have been acquitted of the charge, extending them benefit of doubt.

2. Briefly the facts of the case are that on 06.01.2009 at 1545 hours i.e. 03:45 p.m. complainant Ghulam Sarwar son of Punhoon Khan by caste Chopan resident of village Chopan Taluka Umerkot, District Umerkot appeared at police station Khipro and lodged his FIR, mainly stating therein that Hanif son of Mir Muhammad Rajar and two others named in the FIR by robbing a Van of people of Jamali caste from Tando Adam, kept it in the land of complainant party and then on their information Sanghar police by conducting raid had shown recovery of that robbed Van from their lands, who complained against the accused to their Nekmards (headmen), to which Muhammad Hanif and others came to the complainant party and informed them that for such settlement between the parties a faisla is scheduled on 05.01.2009 at 03:30 p.m. in village Modhakar. On the given date the complainant, his maternal uncle Muhammad Ismail son of Ali Chopan, Niaz Muhammad son of Muhammad

Ismail, Anwar son of Ramzan, Khan Muhammad son of Ali Muhammad, Abdul Ghani son of Muhammad Ramzan and Muhammad Ayoub son of Ali Muhammad all Chopan by caste proceeded towards the pointed place for faisla and at about 03:30 p.m. when reached at Modhakar on road side accused Photo son of unknown Rajar having Kalashnikov in his hand, Mitho son of Hote Rajar and Hanif son of Mir Muhammad Rajar having Rifles in their hands, Hassan son of Ilyas Rajar having a Repeater in his hand, Sajjan son of Mir Muhammad Rajar, Habibullah son of Mir Muhammad Rajar, Sanwal son of Mir Muhammad Rajar, Master Jeando son of Shafi Muhammad Rajar and Sikiladho son of Abdullah Rajar, all having double barrel guns in their hands, Khuda Bux son of Mir Muhammad Rajar having a hatchet in his hand, Saleh son of Mir Muhammad Rajar and Abdul Rahim son of Mir Muhammad Rajar both having lathies in their hands reached there and by show of weapons they snatched licensed Repeater from the Muhammad Ismail and disclosed that they would take away Muhammad Ismail and his son Niaz Muhammad, asking the rest to go back to their village, if they want their safety. Thereafter within their sight Photo, Hanif, Muhammad Saleh, Sanwal, Sikiladho and Abdul Rahim abducted away Muhammad Ismail in vehicle No.BA-5123 and No.BB-8149 towards sand mounds, while the rest of the accused abducted away Niaz Muhammad, beating him, towards their houses, making aerial firing. The complainant party then returned to their village. Then on the advise of their Nekkard the complainant appeared at police station Khipro and lodged the subject FIR on 06.01.2009.

3. After usual investigation, final report under Section 173 of The Code of Criminal Procedure, (Act V of 1898) (**"The Code"**) was submitted wherein Section 302 of The Penal Code was added for the reason that alleged abductee Muhammad Ismail was subsequently found dead in Kambho Jo Daro.

4. Following the legal formalities, absconded co-accused Photo, Muhammad Hanif, Sanwal and Sikiladho were declared proclaimed offenders vide order dated 23.01.2010 (Ex.05); subsequently co-accused Muhammad Hanif, Sikiladho and Sanwal joined the trial. Then after making compliance of the provisions of Section 265-C of The Code and completing other legal formalities a formal charge was framed against the accused at Ex.10, to which they pleaded not guilty and claimed their trial vide their pleas Exs.11 to 22; later on respondent Sikiladho absconded away, hence he was declared as proclaimed offender vide order dated 04.12.2013 (Ex.24). During trial, accused Mitho son Hote Rajar and Muhammad Hassan son of Muhammad Ilyas Rajar died and as result whereof, the proceedings against them stood abated vide orders dated 30.07.2017 and 01.02.2017 (Ex.35 &46) respectively.

5. At the trial, the prosecution examined in all 13 (thirteen) PWs namely complainant Ghulam Sarwar as PW.1, who produced FIR at Ex.25/A, Niaz Muhammad as PW.02 at Ex.26, Khan Muhammad as PW.03 at Ex.27, Muhammad Ayoub as PW.04 at Ex.28, Abu Bakar as PW.05 at Ex.30, who produced memo of vardhat at Ex.30/A, Jan Muhammad as PW.06 at Ex.31, who produced mashirnama of recovery of dead body at Ex.31/A, danistnama at Ex.31/B, mashirnama of clothes of deceased at Ex.31/C, mashirnama of arms

license at Ex.31/D, photocopy of receipt at Ex.31/E, and photocopy of license at Ex.31/F (in the name of deceased Muhammad Ismail), Ali Akbar WHC P.S. Khipro as PW.07 at Ex.33, who produced mashirnama of recovery of hatchet and lathi at Ex.33/A and departure entry No.07 at Ex.33/B, Muhammad Siddique Tapedar as PW.08 at Ex.34, who produced sketch of place of incident at Ex.34/A, SIP Pathan Khan Shar as PW.09 at Ex.36, who produced mashirnama of arrest/recovery at Ex.36/A, departure/arrival entries No.09 & 19 at Ex.36/B, attested Photostat copy of letters addressed to Incharge Forensic Science Laboratory, and Chemical Examiner, Karachi at Ex.36/C & D, SIP Hussain Bux Rajar as PW.10 at Ex.37, who produced carbon copy of Lash Chakas Form at Ex.37/A, and postmortem report of deceased at Ex.37/B, ASI Muhammad Tufail, scribe of FIR No.03/2009 as PW.11 at Ex.39, Dr. Gordhan Das as PW.12 at Ex.41, who verified handwriting & signatures with regards to autopsy conducted by Dr. Muhammad Ashraf and HC-Muhabat corpse bearer as PW.13 at Ex.42, who produced carbon copy of police letter duly received at Ex.42/A and the receipt regarding handing over dead body to Jiand at Ex.42/B; and thereafter the prosecution closed its side vide statement Ex.43. Then the statement of respondent Khuda Bux under Section 342 of The Code was recorded at Ex.47, wherein he denying the prosecution allegations, professed his innocence and his false implication in the subject case. He, however, did not examine himself on oath, but he wished to examine DWs as shown in the list submitted by him at Ex.47/A and further he filed his written statement as provided by Section 265-F (5) of The Code alongwith certain documents at

Ex.47/B. The statements of respondents Muhammad Ibrahim, Abdul Rahim, Muhammad Saleh, Master Jeando, Muhammad Sajjan, Habibullah, Muhammad Hanif and Sanwal under Section 342 of The Code were recorded at Exs.48 to 55, wherein they also denying the prosecution allegations, professed their innocence and their false implication, and further they adopted the same written statement as that of filed by co-accused Khuda Bux. None among them wished to examine himself on oath. The accused examined Dr. Nathurmal, M.O. Taluka Hospital Khipro as DW No.1 at Ex.57, who produced photocopies of police letter, provisional and final medico-legal certificates of injured Allah Bachayo, Radiologist's report and feedback of LUMHS Hyderabad, comprising of 24 pages at Exs. 57-A to 57-E respectively; Gul Muhammad son of Muhammad Hassan Rajar as DW.2 at Ex.58 and injured Allah Bachayo as DW.3 at Ex.59 and then their side was closed.

6. At the conclusion of the trial and after hearing the parties' counsel, the learned trial Court acquitted the respondents of the charge, extending them benefit of doubt vide impugned acquittal judgment dated 27.02.2019, as discussed in paragraph-I *supra*.

7. Having felt aggrieved by the impugned acquittal judgment dated 27.02.2019, appellant/complainant Ghulam Sarwar Chopan has preferred this Criminal Appeal.

8. The learned Counsel for the appellant has mainly contended that the learned trial Court has not properly appreciated the evidence brought on the record; that the learned trial Court has failed to appreciate that injured witness Niaz Muhammad has

supported the prosecution case; that the learned trial Court has also failed to appreciate that in the counter case based on F.I.R. No.02 of 2009 lodged by Khuda Bux from the accused side for the same incident, the accused from the complainant side have been acquitted of the charge; that the learned trial Court while passing the impugned acquittal judgment has focused upon the minor contradictions ignoring the fact that the prosecution witnesses were examined after more than 06 years of the incident; that the learned trial Court has failed to appreciate that the motive set-forth by the prosecution is supported by the complainant and PWs; that the learned trial Court has failed to appreciate that the medical evidence is in line with the ocular account; that the prosecution has proved its case against the respondents beyond reasonable doubt, but the learned trial Court has acquitted the respondents; and, that the impugned acquittal judgment passed by the learned trial Court is illegal. The learned counsel prays that this criminal acquittal appeal may be allowed and the respondents may be convicted.

9. Conversely, the learned Advocate for the respondents has mainly contended that there was delay of more than 24 hours in lodgment of the FIR, which has not been properly explained by the prosecution; that there are material contradictions in the evidence led by the prosecution; that the medical evidence is in conflict with the ocular account; that the prosecution has failed to prove its case against the respondents beyond reasonable doubt; and, that the learned trial Court after appreciating the evidence brought on record has acquitted the respondents. The learned counsel placing his reliance on the cases of ***GHULAM NABI VERSUS IKRAM ALIAS***

***KAMA AND OTHERS (2020 SCMR 477), HAJI PAIO KHAN VERSUS SHER BIAZ AND OTHERS (2009 SCMR 803) AND M.B. ABBASI AND ANOTHER VERSUS THE STATE (2009 SCMR 808)***

has prayed for dismissal of the instant criminal appeal. The learned Additional Prosecutor General, Sindh on behalf of the State adopting the arguments of the learned counsel for the respondents has supported the impugned acquittal judgment of the learned trial Court.

10. We have considered the submissions of learned counsel for the appellant, the learned Advocate for the respondents and learned Additional Prosecutor General, Sindh, and have gone through the evidence brought on the record.

11. From a perusal of the record, it would be seen that the incident of alleged abduction of deceased Muhammad Ismail and Niaz Muhammad was shown to have taken place on 05.01.2009 at 03:30 p.m. and whereas the FIR was lodged on 06.01.2009 at 03:45 p.m. i.e. after more than 24 hours of the incident; the statements of the PWs under Section 161 of The Code were recorded with further delay on 17.01.2009 i.e. after 12 days of the incident and 11 days of the lodgment of the FIR; there is no plausible explanation for such an inordinate delay in lodgment of the FIR and in recording statements of the PWs; it is reiterated that the delay in lodgment of the FIR has been viewed with grave suspicion, how much it throws clouds of suspicion on the seeds of prosecution, depends upon a variety of factors, it requires careful scrutiny when number of accused is large and such delay has resulted in embellishment, which was a creation of afterthought, assuming importance going to the extent of being fatal to the prosecution case in

absence of convincing explanation, which prima facie points out to fabrication of the prosecution story; and such an unexplained inordinate delay in lodgment of the FIR and in recording statements of the PWs under Section 161 of The Code, in the wake of previous hostility between the parties being significant could not be lost sight of, for, under the given circumstances, the possibility of false implication of the respondents after consultations and deliberations could not be ruled out. Reliance in this context is placed on the case of **AKHTAR ALI AND OTHERS V. THE STATE (2008-SCMR-6)**, wherein the **Hon'ble Supreme Court of Pakistan** has held that:-

*“It is also an admitted fact that the FIR was lodged by the complainant after considerable delay of 10/11 hours without explaining said delay. The FIR was also not lodged at Police Station as mentioned above. 10/11 hours delay in lodging of FIR provides sufficient time for deliberation and consultation when complainant had given no explanation for delay in lodging the FIR.”*

In the case of **AYUB MASIH VS. THE STATE [PLD 2002 SC 1038]**, the **Hon'ble Supreme Court of Pakistan** has held that:

*“Unexplained inordinate delay in lodging the FIR is an intriguing circumstance, which tarnishes the authenticity of the FIR, casts a cloud of doubt on the entire prosecution case and is to be taken into consideration while evaluating the prosecution evidence. It is true that unexplained delay in lodging the FIR is not fatal by itself and is immaterial when the prosecution evidence is strong enough to sustain conviction but it becomes significant where the prosecution evidence and other circumstances of the case tend to tilt the balance in favour of the accused.”*

In case of **MUHAMMAD ASIF VS. THE STATE [2017 SCMR 486]**, the **Hon'ble Supreme Court of Pakistan** has held that:

*“There is a long line of authorities/precedents of this Court and the High Courts that even one*

***or two days unexplained delay in recording the statements of eye witnesses would be fatal and testimony of such witnesses cannot be safely relied upon.***

12. PW Niaz Muhammad has stated that on the instigation, accused Habibullah Sajjan, Sanwal, Hanif, Ibrahim, Sikiladho and Photo made straight fires at his father Muhammad Ismail, who after sustaining firearm injuries fell down on the ground and when he rushed towards his father, accused Khuda Bux gave him blunt side hatchet below, fracturing his left arm and thereafter Saleh, Abdul Rahim and Master Jiand dealt lathi blows on back of his chest, and whereas complainant Ghulam Sarwar and PWs Khan Muhammad and Muhammad Ayoub have not stated a single word about receiving injuries by PW Niaz Muhammad at the hands of accused/respondents or about the alleged firing by accused Habibullah Sajjan, Sanwal, Hanif, Ibrahim, Sikiladho and Photo at deceased Muhammad Ismail or even about the instigation by any accused; undisputedly, there is no medical evidence to substantiate the version of the alleged injured Niaz Muhammad about receiving injuries by him, and his having been examined and treated by the medical officer on the alleged directions, passed by the Judicial Magistrate when he was produced before him for the purpose of remand as claimed by him nor mashirnama of alleged injuries of Niaz Muhammad is shown to have been prepared or produced in evidence; furthermore, according to PW Niaz Muhammad, the police did not record his statement, but PW.9 Ex.36 SIP Pathan Khan Shar has stated that ***“on 17.01.2009, I recorded the statements of witnesses Niaz Muhammad, Muhammad Ayoub, Anwar Ali, Khan Muhammad and Abdul Ghani”***; per PW.9 SIP Pathan Khan

Shar PW Niaz Muhammad has not stated in his statement under Section 161 of The Code about his father Muhammad Ismail's refusal to accompany with the accused to Achhro Thar or about accused Mitho and Muhammad Hassan's telling him that they would take away his father after committing his murder or about making fires straight at his father Muhammad Ismail and causing him firearm injuries by accused Habibullah Sajan, Sanwal, Hanif, Ibrahim, Sikiladho and Photo or about accused Khuda Bux's giving him blunt side hatchet blow, fracturing his arm and or even about accused Salleh, Abdul Raheem and Master Jiand's, causing him lathi blows on back of his chest; and, thus patently PW Niaz Muhammad made dishonest and deliberate improvements, thereby making vain attempt to establish his presence at the time of alleged incident; moreover, the postmortem of deceased Muhammad Ismail was conducted by Dr. Muhammad Ashraf, who was stated to have gone to Saudi Arabia and did not return; in all 14 injuries i.e. six entry wounds, six exit wounds, one abrasion and one burn wound were found on the person of deceased Muhammad Ismail; the duration between the injuries and death was opined to be 10-20 minutes and the duration between the death and postmortem was opined to be 24-48 hours, as is evident from the evidence of PW Dr. Gordhan Das Ex.41, who having acquaintance of the hand writing and signature of Dr. Muhammad Ashraf, was examined as PW.12 and the postmortem report produced at Ex. 37/B, meaning thereby deceased Muhammad Ismail whose dead body was found on 08.01.2009 and the postmortem conducted on the same day at 11:30 a.m. would have sustained injuries either on 06.01.2009 or on

07.01.2009 not on 05.01.2009 at 03:30 p.m. as claimed by PW Niaz Muhammad, and thus the claim of PW Niaz Muhammad that he had seen the accused making firing at deceased Muhammad Ismail has been belied by the medical evidence and his version of his having witnessed the occurrence of causing firearm injuries to his father deceased Muhammad Ismail has further been negated by the fact that he (PW Niaz Muhammad) was apprehended by the complainant party in FIR No.02 of 2009 for having allegedly caused firearm injury to one Allah Bachayo, who appeared as D.W.02 at Ex.59, by use of SBBL Gun by PW Niaz Muhammad, who was allegedly apprehended with the crime weapon SBBL Gun at the spot and was produced at police station Khipro at the time of lodging of FIR No.02 at 0015 hours i.e. 12:15 a.m. (night) of 06.01.2009 lodged by Khuda Bux, i.e. more than 15 hours before the lodgment of the subject FIR No.03 of 2009 lodged on 06.01.2009 at 1545 hours i.e. 03:45 p.m. at police station Khipro; aforesaid D.W injured Allah Bachayo was examined by D.W Dr. Nathurmali on 05.01.2009 at 06:15 p.m, who is shown to have referred the said D.W injured Allah Bachayo to LUMHS, Hyderabad for radiological expert opinion etc and ultimately the injury No.01 sustained by D.W Allah Bachayo caused by firearm weapon was declared to be *Ghayr-Jaifah-Mutalahimah*, as is evident from the evidence of D.W No.1 Dr. Nathurmali Ex.57, Provisional and final medico-legal certificates produced at Exs. 57/B and 57/E. Furthermore, according to SIO SIP Hussain Bux, on receiving information about the availability of corpse lying at Maoo Road near village Kambho Jo Daro, he alongwith his staff comprising of four police officials leaving police station under roznamcha entry No.4

went to the pointed place where he found dead body, having plastic bags wrapped on his feet and face, which he removed; in the meanwhile complainant Ghulam Sarwar and mashirs Jan Muhammad and Jiand reached there, who identified the dead body to be of Muhammad Ismail; per him, he collecting blood stained earth sealed it in a box there and then prepared Lash Chakas Form Ex.37/A, Danistnama Ex.31/B and memo of inspection of dead body Ex.31/C in presence of mashirs Jan Muhammad and Jiand, but in the cross examination he has stated that he gave ring to the complainant, who alongwith mashirs reached there, while according to PW.6 mashir Jan Muhammad Ex.31, who happened to be the real brother of deceased Muhammad Ismail, he and Jiand (co-mashir) firstly reached at police station Khipro wherefrom they together with the police including SIO (SIP Hussain Bux) proceeded and went to the place of vardhat in police mobile; per mashir Jan Muhammad, he and co-mashir Jiand were sitting on the back seat of the police mobile while SIO was sitting on the front seat of the police mobile; and at that time except him and Jiand (co-mashir) no other private person was present in the police mobile and whereas PW.1 complainant Ghulam Sarwar did not state about his and mashirs Jan Muhammad and Jiand's identifying the dead body allegedly lying at Kambho Jo Daro to be of Muhammad Ismail, but instead he stated that on receiving information through his peasant/Hari namely Bhojo on cell phone he alongwith his uncle mashir Haji Jiand in his Potohar Jeep went to the pointed place where dead body of Muhammad Ismail was alleged to be lying where they did not find the dead body of deceased Muhammad Ismail, per him, the persons available

there, informed them that the police had already shifted dead body to Khipro Hospital, and then he (complainant Ghulam Sarwar) accompanying mashirs Jiand and Jan Muhammad and his driver Hamzo came to Khipro Civil Hospital where they came to know that the proceeding of postmortem of deceased Muhammad Ismail was in process. PW.13 HC Muhabat Hingorjo, who accompanying SIO, SIP Hussain Bux and other staff in pursuance of the information went to the pointed place namely Kambho Jo Daro, where dead body of deceased Muhammad Ismail was allegedly lying and remained there till dead body was handed over to him, which he brought at Civil Hospital Khipro for postmortem, whereafter he handed over dead body to Jiand (mashir) and then he brought clothes of deceased at police station, meaning thereby he undisputedly all along remained with the police party headed by SIO SIP Hussain Bux; but he did not state about plastic bags wrapped on the feet and face of dead body or about the arrival of complainant and mashirs Jan Muhammad and Jiand there and or even about collecting blood stained earth therefrom by the SIO Hussain Bux as claimed by the latter; to a specific question he (HC Muhabat) has stated that ***“I did not see any blood lying at the place where dead body was lying; I did not see the blood over there at all”*** further according to this PW HC Muhabat Hingorjo when they reached at Kambho Jo Daro where dead body was lying, no private person was found available there and no private person accompanied them when they left police station and went to Kambho Jo Daro; he went on to say that no private person was present there until his departure towards the hospital, per him, they took dead body in a

private Datsun towards hospital, which according to him, was arranged by SIO SIP Hussain Bux Rajar while SIP Hussain Bux did not state about arranging Datsun vehicle for transportation of dead body to the hospital; according to SIO SIP Hussain Bux at about 09:00 a.m. when they reached at place of vardhat Sujjan Singh, who had informed him about the availability of dead body of deceased Muhammad Ismail at Kambho Jo Daro, was not present there, and per him, he located the place where dead body was lying as he already received information from Sujjan Singh about it, while per PW mashir Jan Muhammad, when they reached at the place of vardhat alongwith the police, informer Sujjan Singh by caste Thakar was present and except him no other person was present there. It is worthwhile to mention here that the prosecution has not produced daily dairy entries to establish the movements of the police including the SIO's to the place of vardhat; and, the place where the dead body of deceased Muhammad Ismail was found and their return to the police station Khipro from the aforesaid places, although production thereof was essential to prove that the aforesaid proceedings were conducted there at the relevant places, as claimed by the prosecution. Apart from the above material contradictions, inconsistency between medical and ocular version and dishonest and deliberate improvements made by the PWs during the trial, rendering the prosecution case highly doubtful, there are many other material infirmities and discrepancies in the prosecution case, which need not to be discussed here just to save the space and time.

13. On our own independent evaluation of the evidence as discussed *supra*, we have come to the conclusion that the prosecution has failed to prove its case against the accused/respondents. Under these circumstances, we are of the considered view that there was no occasion for conviction of the accused/respondents and the learned trial Court was right in acquitting the accused/respondents, extending them benefit of doubt.

14. Even otherwise, the principles for appreciation of evidence in appeal against the acquittal are now well settled, for, an accused is presumed to be innocent and if after trial, he is acquitted, he earns double presumption of innocence, which will remain attached with the judgment of acquittal and heavy onus is on the prosecution to rebut the said presumption; such acquittal judgment cannot be interfered with unless it is proved that same is arbitrary, shocking, capricious, fanciful and on perusal of the evidence no other decision can be given except that the accused is guilty, and there has been complete misreading of evidence leading to miscarriage of justice; and, while evaluating the evidence, difference is to be maintained in appeal from conviction and in appeal against acquittal. Reliance in this context may be placed on cases of **MUHAMMAD SHAFI V. MUHAMMAD RAZA AND ANOTHER (2008 SCMR 329)**, **STATE/GOVERNMENT OF SINDH THROUGH ADVOCATE GENERAL, SINDH, KARACHI V. SOBHARO (1993 SCMR 585)**, and **YAR MUHAMMAD AND 3 OTHERS V/S THE STATE (1992 SCMR 96)**.

15. In view of what has been discussed above, we are of the considered view that the finding of acquittal, rendered by the learned Trial Court, is neither arbitrary nor is capricious and the impugned acquittal judgment, passed by the learned trial Court, is apt to the facts and circumstances of the case. The learned counsel for the appellant has also not been able to point out any illegality or infirmity or perversity or even any jurisdictional defect in the impugned judgment, calling for interference of this Court in exercise of jurisdiction in an appeal against acquittal judgment. Accordingly, the instant criminal appeal being devoid of merit is dismissed.

**(JUSTICE KHADIM HUSSAIN M.SHAIKH)  
JUDGE**

**(JUSTICE DR. SYED MUHAMMAD ANWER)  
JUDGE**

Dated 24.12.2021  
at Karachi  
*Khurram\**