

JUDGMENT SHEET
IN THE HIGH COURT OF BALOCHISTAN, QUETTA

Criminal Acquittal Appeal No. 256 of 2025
(CC# 100107803729)

Muhammad Asfand Yar Khan
Vs.
Ulfat & others

Date of hearing: 24-11-2025 Announced on: 29.11.2025

Appellant by: Mr. Saifullah Kakar, Advocate.

O R D E R

Sardar Ahmad Haleemi, J.- This Criminal Acquittal Appeal is directed against the order dated 15th September 2025 (hereinafter the “**impugned order**”) passed by the learned Judicial Magistrate-XIII, Quetta (hereinafter the “**trial Court**”), whereby respondent Nos.1 to 4 were acquitted of the charge under section 249-A Cr.P.C.

2. The brief facts of the instant case are that the complainant, Muhammad Asfand Yar Khan, lodged FIR No.02/2025 registered under Sections 147, 148, 149, 382, 427, 337-H(2) PPC on 09th January 2025 at 02:00 AM at Police Station Pashtoonabad, Quetta, against Respondents No.1 to 4 and five unknown persons and alleged that the accused persons along with their companions, formed unlawful assemblies, arrived on a vehicle bearing registration No. AVR-412 and four motorcycles, and demolished the walls of the complainant’s shops situated at Usman Bagh. It was further alleged that the accused took away items including a generator, water pump, spray machine, and spade, while some of the accused made stray firing.

3. After the registration of the FIR, respondent Nos. 1 to 4 were arrested, and a challan of the case was submitted before the learned trial Court. The charge was duly framed, and the case was fixed for the recording of prosecution evidence. In the meantime, the respondent Nos. 1 to 4 filed an application under Section 249-A, Cr.P.C. The trial Court heard the arguments, allowed the application, and acquitted the respondent Nos. 1 to 4 vide the impugned order; hence, this Criminal Acquittal Appeal.

4. Learned counsel for the appellant contended that the impugned order is contrary to law and facts, reflects misreading of evidence, and was passed under Section 249-A Cr.P.C. without notice or opportunity to the prosecution, violating audi alteram partem; that the offences alleged are grave, involving unlawful assembly, use of weapons, hurt, robbery, and mischief, and cannot be dismissed without recording evidence; that the trial court acted beyond jurisdiction, decided the matter in haste, deprived the complainant of the right to produce evidence, and gave unwarranted and perverse reasons for acquittal; that the appellant relied on settled law that Section 249-A acquittal should not be exercised casually and reserved the right to raise further points at hearing.

5. We have heard the learned counsel for the appellant and perused the record.

6. Perusal of record reveals that the complainant, Muhammad Asfand Yar Khan, lodged FIR No. 02/2025 on 09th January 2025 at around 02:00 AM at Police Station Pashtoonabad, Quetta, under

Sections 147, 148, 149, 382, 427, and 337-H(ii) PPC. The complainant nominated the respondent Nos. 1 to 4 and their accomplices in the crime report. According to the complainant, the accused persons, accompanied by their accomplices, constituted an unlawful assembly, arrived in a vehicle bearing registration No. AVR-412, along with four motorcycles, and proceeded to demolish the walls of the complainant's shops located at Usman Bagh. It is also alleged that the accused persons removed several articles, including a generator, a water pump, a spray machine, and a spade, and that some of them engaged in random firing at the spot.

7. Learned counsel for the appellant/complainant mainly emphasized that the trial Court did not allow the complainant to produce evidence, which is an utter violation of Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. A perusal of the record reflects that the case was registered on 06th February, 2025. Despite the case being repeatedly fixed for the recording of prosecution evidence, no witness was produced before the trial Court till the date of pronouncement of the impugned order, which clearly demonstrates an unjustified and inordinate delay on the part of the prosecution. This persistent negligence and lack of diligence on the part of the prosecution not only weakened its own case but also frustrated the very object of a fair and expeditious trial. The trial Court cannot be expected to keep the matter pending indefinitely at the whims of an indolent prosecution, nor can the accused be kept under perpetual threat of trial without evidence. The plea that the complainant was condemned unheard is therefore wholly misconceived, as the delay and failure squarely rest upon the prosecution itself. In these circumstances, the acquittal recorded by the

learned trial Court is well-founded and fully aligned with established principles governing criminal justice.

8. Apart from the above, the FIR also invokes Section 427 PPC, which penalizes the intentional or knowing commission of mischief causing property damage valued at fifty rupees or more. A thorough examination of the record demonstrates that the prosecution has completely failed to produce any material evidence to substantiate the essential ingredients of this offence. There is no evidence on record indicating that any property belonging to another was damaged, nor is there proof that the damage, if any, reached the minimum statutory value. Moreover, there is a lack of evidence that the accused acted with the requisite mens rea, that is, with knowledge or intent to cause mischief. It is well settled in law that mere allegations in the FIR, without supporting evidence, are insufficient to establish criminal liability under Section 427 of the PPC. The prosecution's failure to discharge its burden of proof renders the invocation of this section wholly baseless and legally unsustainable, thereby justifying the acquittal of the respondent Nos.1 to 4.

9. Moreover, after gaining acquittal, a double presumption of innocence lies in favour of the acquitted respondents, and strong and exceptional circumstances are required to rebut the same. Reliance in this regard is placed on the case "Muhammad Shafi v. Muhammad Raza and another" (2008 SCMR 329), wherein it is held as under:

"An accused is presumed to be innocent in law and if after regular trial he is acquitted he earns a double presumption of innocence and there is a

heavy onus on the prosecution to rebut the said presumption. In view of the discrepant and inconsistent evidence led, the guilt of accused is not free from doubt, we are therefore, of the view that the prosecution has failed to discharge the onus and the finding of acquittal is neither arbitrary nor capricious to warrant interference.”

For the above reasons, Criminal Acquittal Appeal No. 256 of 2025, being devoid of merit, is dismissed in limine.

Announced in open Court:
Quetta, on 29th November,2025

Judge.

Judge.