

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

P.S.L.A No. 01 of 2024

Mehboob Ali Nasir

Versus

Nasir Mehmood and another.

| S.No. of order/ proceeding | Date of order/ proceeding | Order with signature of Judge and that of parties or counsel where necessary. |
|---|--|--|
| (01) | 01.02.2024 | Mr. Sajid Mehmood Chaudhry, Advocate for the petitioner. |

Through the instant petition for special leave to appeal filed U/S 417(2) Cr.P.C, the petitioner has impugned judgment dated 19.12.2023, passed by Judicial Magistrate Section-30, East-Islamabad, whereby respondents No. 1 & 2 have been acquitted from private complaint filed U/S 200 Cr.P.C, offence U/S 452, 427, 436, 511, 380 PPC, P/S Nilore, Islamabad.

02. Brief facts of the case are that earlier the petitioner filed an application before S.H.O, P/S Nilore, Islamabad, wherein it is alleged that on 20.08.2019,

respondent No. 1 namely Nasir Mehmood with connivance of his co-accused namely Shoukat Ali Shakir/respondent No. 2, trespassed into the house of petitioner/complainant and attempted to ablaze his house and his family members. Respondent No. 1 also gave beatings to both the daughters and wife of the petitioner. Thereafter, he broke the house hold articles and took away wife of the petitioner by dint of force who is sister of respondent No. 1. However, the police did not take any action upon the application and refused to register F.I.R. Being aggrieved, the petitioner filed private compliant U/S 200 Cr.P.C, offence U/S 452, 427, 436, 511, 380 PPC, P/S Nilore, Islamabad against the respondents, whereas Judicial Magistrate Section-30, East-Islamabad vide impugned judgment dated 19.12.2023, while extending benefit of doubt to accused persons/respondents,

exonerated them from the charges levelled against them and resultantly they were acquitted from the private complaint, hence the instant petition.

03. Learned counsel for the petitioner, *inter-alia*, contends that impugned judgment is against the law and facts of the case; the impugned judgment is result of misreading and non-reading of evidence; learned Court below has committed material illegality and irregularity while passing the impugned judgment; learned trial Court has exercised the jurisdiction not vested in it under the law, hence the same is liable to be set-aside.

04. The complainant/petitioner has not produced the important witness like Wajid Ali before the trial Court and also did not produce PW-2 i.e. Muhammad Qadeer for cross-examination.

05. PW-1 is not the eye-witness of the occurrence. As far as, two other witnesses are concerned, there are

material contradictions in their statements.

06. Allegedly, the occurrence took place on 20.08.2019, however, the private complaint was filed on 13.09.2019. Learned counsel has stated that police has refused to register FIR against the respondents, when confronted that why the petition under section 22-A Cr.P.C was not filed, learned counsel has not extended any plausible explanation.

07. The scope of setting aside the benefit of acquittal granted by the Court of competent jurisdiction is very much limited. Reliance in this regard is placed on a case titled as **The State through P.G. Sindh and others Vs. Ahmed Omer Sheikh and others (2021 SCMR 873)**, wherein it has been held by the Supreme Court of Pakistan that:

"Admittedly the parameters to deal with the appeal against conviction and appeal against acquittal are totally different

because the acquittal carries double presumption of innocence and same could be reversed only when found blatantly perverse, illegal, arbitrary, capricious or speculative, shocking or rests upon impossibility. If there is a possibility of a contrary view even then acquittal could not be set aside."

It has also been held by the Supreme Court of Pakistan in a case titled as **Zeeshan alias Shani and another Vs. Muhammad Ayub and others** (2021 SCMR 142), that:

"It is by now well settled that reversal of acquittal requires strong grounds and cannot be interfered with merely on the possibility of contra view".

08. I have heard learned counsel for the petitioner and gone through the record, carefully examined the impugned judgment and find that trial Court has assigned valid reasons for reaching its conclusions which are duly supported by law.

09. I find no reason, basis or justification to interfere in the matter, not persuaded to take a view different from the one taken by trial Court, consequently I do not find any legal or valid reason for issuance of notice to respondents, hence the above captioned P.S.L.A is **dismissed in limine.**

(TARIQ MEHMOOD JAHANGIRI)
JUDGE

Bilal /-