

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Appeal No. 05 of 2020

Nisar Ahmed Afzal

Vs

The State, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
---	---	--

- 02) 27-06-2020. Syed Javed Akbar Shah and Malik Muhammad Zulfiqar Advocates, for the appellant.
Sheikh Muhammad Suleman and Khalil ur Rehman Abbasi Advocates, for respondents.
Mr Hassnain Haider Thaheem, State Counsel.
M/s Shafiq Ahmed, Inspector, Shaukat Ali, Inspector, M. Akram, Inspector, Aamir, Sub Inspector and Khalid, ASI, with record.

This appeal is directed against order, dated 03.10.2019, passed by the learned Judicial Magistrate Section-30, West-Islamabad, whereby the latter has allowed application filed under section 249-A of the Code of Criminal Procedure, 1898 and consequently respondent no. 2, namely Iftikhar Ahmed has been acquitted in the criminal case i.e. FIR No. 107/2016, dated 23.03.2016, registered under section 406 of the Pakistan Penal Code, 1860 [hereinafter referred to as the "**PPC**"] at the Police Station Ramna, Islamabad. Respondent no. 2 filed an application under section 249-A of Cr.P.C. and the learned Magistrate after

affording an opportunity of hearing to the parties allowed the same vide impugned order, dated 03.10.2019.

2. The learned counsel for the parties have been heard and the record perused with their able assistance.

3. The learned Magistrate after taking into consideration all the relevant matters has passed a reasoned order which does not suffer from any legal infirmity. The assertions made in the written complaint which had led to the registration of the criminal case unambiguously shows that dispute between the parties is purely of a civil nature. The acquittal of respondent no. 2 does not suffer from any legal infirmity.

4. It is settled law that presumption of "double innocence" is attached where an order of acquittal of an accused is challenged. The presumption of "double innocence" can be rebutted if it could be shown that the order was passed as a result of misreading or non-reading of evidence or the same was patently illegal. It is also settled law that the appellate Court would not interfere with acquittal merely because on reappraisal of evidence a different conclusion or opinion could be formed. The finding of acquittal can only be reversed, upset or disturbed in exceptional circumstances such as when the same are perverse, shocking, alarming, suffering from error of jurisdiction or misreading or non-reading of evidence.

Reliance is placed on case of '*Muhammad Zaman Versus The State and others*' [2014 SCMR 749], '*Muhammad Rafique Versus Muhabbat Khan and others*' [2008 SCMR 715], '*Jehangir Versus Amin Ullah and others*' [2010 SCMR 491], '*Mst. Askar Jan and others Versus Muhammad Daud and others*' [2010 SCMR 1604], '*Mst. Sughra Begum and another Versus Qaiser Pervez and others*' [2015 SCMR 1142].

5. The appeal is devoid of merits and, therefore, stands accordingly **dismissed**.

CHIEF JUSTICE

Tanveer Ahmed.