

Form No: HCJD/C-121  
**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

Criminal Appeal No. 37 of 2019

The Directorate General, Intelligence and Investigation (Customs), FBR  
Vs  
Abdul Razzaq, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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30-09-2019. Mr. M.D Shahzad, Advocate for the appellant.

Through this appeal the appellant Department has assailed judgment, dated 05.12.2018 passed by the learned Special Court (Customs, Taxation and Anti Smuggling) Rawalpindi/Islamabad Capital Territory (hereinafter referred to as the "**Special Court**").

2. The facts, in brief, are that the appellant Department registered a criminal case i.e. FIR No. 11/2018, dated 18.04.2018. After recording of evidence, the learned Special Court vide judgment, dated 05.12.2018, acquitted respondents no. 1 to 3.

3. The learned counsel for the appellant has been heard at length. The learned counsel was asked to satisfy that the learned Special Judge has misread the record. The learned counsel has stressed that the learned Special Judge has not properly appreciated letter, dated 13.04.2018,

which was tendered in evidence as Ex-PE wherein it was stated that particulars of the vehicle were not available in the record maintained by the Model Customs Collectorate, Custom House Quetta. The learned counsel, however, could not show any other evidence which had been brought on record to discharge its onus. A plain reading of paragraphs 13 to 15 of the impugned judgment, dated 05.12.2018, passed by the learned Special Judge unambiguously shows that other than letter referred to by the learned counsel, the prosecution had failed to prove the guilt of the respondents by bringing on record reliable and trustworthy evidence in order to hand down conviction. The learned counsel for the appellant Department was also not able to give a satisfactory explanation regarding the amount which admittedly was deposited in the Bank. The prosecution could not establish that the Bank challan brought on record was not genuine. Moreover, the learned counsel for the appellant Department, despite his able assistance, has not been able to satisfy this Court that the impugned judgment, dated 05.12.2018, passed by the learned Special Judge suffers from any legal infirmity. On the basis of evidence brought on record by the prosecution, the learned Special Court had rightly extended the benefit of doubt and acquitted the respondents.

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. In view of the above, this appeal is without merit and, therefore, accordingly/dismissed.

*(CHIEF JUSTICE)*