

Form No: HCJD/C-121
ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Crl. Appeal No. 124/2022

The Collector of Customs (MCC), Islamabad

Versus

Muhammad Abbas & another

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<u>16</u> -03-2022	Ch. Muhammad Nawaz, Advocate for the appellant.

Athar Minallah, C.J.- The Department has assailed judgment, dated 18-11-2021, passed by the learned Judge Special Court (Customs, Taxation and Anti-Smuggling) Rawalpindi, whereby the respondents have been acquitted.

2. FIR No.41/2019, dated 18-10-2019, was registered under sections 2(s), 156(1)89 and 178 of the Customs Act, 1969. After submission of the report under section 173 of the Code of Criminal Procedure, 1898 (*hereinafter referred to as "Cr.P.C."*), charge was framed on 02-09-2020. The prosecution produced seven witnesses. The respondents filed an application under section 265-K

of Cr.P.C., which was allowed vide the impugned judgment, dated 18-11-2021.

3. The learned counsel for the appellant Department has been heard at great length. In response to the query of the Court, he has conceded that the adjudicating authority had ordered release of the seized goods and that an appeal has been preferred. However, the learned counsel, despite his able assistance, was not able to persuade the Court that the impugned judgment suffers from any legal infirmity nor the learned trial court had misread the evidence brought on record.

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. For the above reasons, the appeal is without merit and, therefore, accordingly dismissed.

(CHIEF JUSTICE)

Luqman Khan/*