

[Supreme Court of Pakistan]

Present: Javed Iqbal, Ijaz-ul-Hassan Khan and Muhammad Qaim Jan Khan, JJ

Haji AMANULLAH----Petitioner

Versus

MUNIR AHMED and others----Respondents

Criminal Petitions Nos.12/Q and 13/Q of 2008, decided on 23rd July, 2009.

(On appeal from the judgment, dated 9-6-2008 passed by the High Court of Balochistan, Quetta in Criminal Acquittal Appeal No.317 of 2006).

(a) Criminal Procedure Code (V of 1898)---

---S. 417--Appeal against acquittal---Interference by Appellate Court---Principles---Appellate Court would not interfere with acquittal of accused merely because on reappraisal of evidence it comes to a conclusion different from that of the Court acquitting the accused, provided both the conclusion are reasonably possible---However, if the conclusion reached by the lower Court was such that no reasonable person would conceivably reach the same and was impossible, then Appellate Court would interfere in such cases on overwhelming proof resulting in conclusive and irresistible conclusion, and that too with a view to avoid grave miscarriage of justice and for no other purpose--Important test is that the finding sought to be interfered with should be found wholly artificial, shocking and ridiculous after scrutiny.

Ali Sher v. The State and 3 others PLD 1980 SC 317; State through Advocate-General N.-W.F.P., Peshawar v. Amir Nazar and others PLD 1981 SC 286; Mst. Habibun Nisa alias Bivi v. Zafar Iqbal and others 1,981 SCMR 95; Nazir Ahmad v. Muhammad Din and others 1981 SCMR 415; Capt. Mahmood Jan v. Madad Khan and another 1981 SCMR 474; Ahmad v. Crown PLD 1951 FC 107; Fateh Muhammad v. Badoo PLD 1960 SC 286; Abdul Majid v. Superintendent and Remembrance of Legal Affairs, Government of East Pakistan PLD 1964 SC 422; Feroze Khan v. Capt. Ghulam Nabi PLD 1966 SC 424; Usman Khan v. The State PLD 1969 SC 293; Noora and another v. The State PLD 1973 SC 469; Abdul Rashid v. Umid Ali and others PLD 1975 SC 227; Taj Muhammad v. Muhammad Yousaf and others PLD 1976 SC 234; Farid v. Aslam PLD 1977 SC 4; Fazalur Rehman v. Abdul Ghani PLD 1977 SC 529 and Ghulam Sikandar v. Mamaraz Khan PLD 1985 SC 11 ref.

(b) Penal Code (XLV of 1860)---

---Ss. 447/427/147/148/149---Constitution of Pakistan (1973), Art.185(3)---Appeal against acquittal---Entire prosecution evidence being vague, sketchy and partisan, had rightly been discarded by the Courts below---Evidence had been appreciated in its true perspective in accordance with principles laid down by Supreme Court qua appreciation of evidence---No illegality, infirmity, misreading or non-reading of evidence, could be pointed out warranting interference in the impugned judgment of acquittal, which being unexceptionable could not be reversed---Leave to appeal was refused to complainant by Supreme Court accordingly.

Ali Sher v. The State and 3 others PLD 1980 SC 317; State through Advocate-General N.-W.F.P., Peshawar v. Amir Nazar and others PLD 1981 SC 286; Mst. Habibun Nisa alias Bivi v. Zafar Iqbal and others 1981 SCMR 95; Nazir Ahmad v. Muhammad Din and others 1981 SCMR 415; Capt. Mahmood Jan v. Madad Khan and another 1981 SCMR 474; Ahmad v. Crown PLD 1951 FC 107; Fateh Muhammad v. Badoo PLD 1960 SC 286; Abdul Majid v. Superintendent and Remembrance of Legal Affairs, Government of East Pakistan PLD 1964 SC 422; Feroze Khan v. Capt. Ghulam Nabi PLD 1966 SC 424; Usman Khan v. The State PLD 1969 SC 293; Noora and another v. The State PLD 1973 SC 469; Abdul Rashid v. Umid Ali and others PLD 1975 SC 227; Taj - Muhammad v. Muhammad Yousaf and others PLD 1976 SC 234; Farid v. Aslam PLD 1977 SC 4; Fazalur Rehman v. Abdul Ghani PLD 1977 SC 529 and Ghulam Sikandar v. Mamaraz Khan PLD 1985 SC 11 ref.

Jamal Khan Mandokhail, Advocate Supreme Court for Petitioner.

Nemo for Respondents.

Date of hearing: 21st May, 2009