

**P L D 1964 Supreme Court 422**

**Present : A. R. Cornelius, C. J., S. A. Rahman, Fazle-Akbar,  
B. Z. Kaikaus and Hamoodur Rahman, JJ**

**ABDUL MAJID-Appellant**

**Versus**

**SUPERINTENDENT AND REMEMBRANCER Oh  
LEGAL AFFAIRS, GOVERNMENT OF EAST  
PAKISTAN-Respondent**

Criminal Appeal No. 5-D of 1962, decided on 2nd March 1964.

(On appeal from the judgment and order of the High Court of East, Pakistan, Dacca, dated the 22nd June 1962, in Government Appeal No. 7 of 1959.)

**(a) Criminal Procedure Code (Y of 1898), S. 417--**Appeal against acquittal-Weight to be given to findings of trial Court-Case resting wholly on direct evidence of witnesses-Benefit of "every" doubt must be given to accused-Trial Court on fair reading of evidence formulating grounds of doubt neither perverse nor wholly unreasonable-Reversing findings in appeal not free from risk.

In the case of reversal of an acquittal by the trial Judge, supported unanimously by the assessors, it is desirable that the Court should bear in mind that the full facts and circumstances of a case are laid open before a trial Court and thereby come within the comprehension of that Court including a jury or assessors, sitting as part of the Court far more thoroughly and completely than it is ever possible on the basis of a written record canvassed to advantage or disadvantage by learned counsel in a Court of appeal. The trial Court being close to the scene of the occurrence and familiar with the ways and practices of the people involved, enjoys a marked advantage in the formation of a complete and balanced picture of the Incident or incidents which go into the making of the prosecution case as presented by witnesses of the locality. It also enjoys another advantage of a priceless character for such appreciation namely that the witnesses do not merely appear before it to give that evidence, which through repetition before the Police authorities and the committing Court they may be thought to be well schooled in, but also that which they give under the probing stresses of cross-examination.

In setting aside an acquittal in a case which rested wholly on direct evidence of witnesses, as much importance must be given as in any other case, to the rule which runs through the criminal jurisprudence of our country as a golden thread that the benefit of every doubt must go to the accused person. Of course a view of the facts or the conclusion therein formed by a trial Judge or even by a jury is not binding on a Court of appeal in Pakistan. A verdict by a jury may be reversed by the High Court on a reference. Equally, a conclusion by a Judge may be reversed even where it has led to an acquittal. But where the Judge has read the evidence fairly, and has formulated grounds of doubt which are not perverse or wholly illogical or unreasonable, there is a clear risk of departure from the rule of the benefit of the doubt in reversing his findings.

Sheo Swarup's case, 1934 I A 398 ref.

**(b) Criminal trial-**Guaging natural probabilities-Court should examine circumstances of act-Penal Code (XLV of 1860), S. 302.

Ruhul Islam Advocate Supreme Court instructed by Abdur Rab Attorney for Appellant.

B. N. Chowdhury Advocate Supreme Court Instructed by Din and Din & Co. Attorneys for Respondent.

Date of hearing : 2nd March 1964.