

THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Appeal No. S – 87 of 2023

[Iqbal Hussain Jumani v. The State]

Appellant by : Mr. Faisal Shams, Advocate

Respondent by : M/s Aftab Ahmed Shar and Zulfiqar Ali Jatoi,
Additional Prosecutors General

Date of Hearing : **24.08.2026, 14.09.2026 & 28.09.2026**

Date of Announcement : **08.10.2026**

JUDGMENT

ARBAB ALI HAKRO J. – Through this criminal appeal under Section 410 Cr. P.C., appellant Iqbal Hussain, son of Muhammad Mithal, by caste Jumani, has impugned the judgment dated 24.08.2023 (the **impugned judgment**) passed by the learned Special Judge, Anti-Corruption (Provincial), Sukkur Division, at Sukkur (hereinafter referred to as “**the trial court**”), in Special Case No. 128 of 2000, arising out of Crime No. 72/1999 registered at the Police Station Anti-Corruption Establishment, Khairpur, whereby he was convicted under Section 5(2) of the Prevention of Corruption Act, 1947 (hereinafter referred to as “**the Act**”) and sentenced to suffer rigorous imprisonment for three years, with a fine of Rs.30,00,000/-, stated to be the present-day cost of 300 bags of Government wheat, and, in default thereof, to undergo imprisonment for two years. He was further convicted under Section 409 PPC and sentenced to suffer rigorous imprisonment for three years, with a fine of Rs.50,000/-, and, in default thereof, to undergo simple imprisonment for three months. Both sentences were ordered to run concurrently, and the benefit of Section 382-B Cr.P.C. was extended to him.¹

¹ Impugned judgment (Ex.15), para 38; order sheet dated 24.08.2023.

2. The case of the prosecution, as set out in the FIR lodged on 01.11.1999 on the basis of the written report of the District Food Controller, Khairpur, is that during the wheat procurement season 1998-99, the appellant, Food Supervisor and in-charge of Wheat Procurement Centre Nara Gate, District Khairpur (hereinafter referred to as “**WPC Nara Gate**”), and Sindhu Mal, Food Supervisor, misappropriated 551 bags of Government wheat valued at Rs.3,85,700/-, thereby causing wrongful loss to the Government and wrongful gain to themselves. The report of the District Food Controller included a list of defaulting officials of the district, in which the two names appear jointly against WPC Nara Gate.²

3. After an investigation and following the decision of the Anti-Corruption Committee-III dated 10.03.2000, the challan was submitted against the appellant alone, with departmental action recommended against Sindhu Mal.³ The charge framed on 25.09.2000 was narrower than the FIR: it alleged that the appellant, while posted as in-charge WPC Nara Gate, in collusion with Sindhomal, committed a shortage of 300 wheat bags costing Rs.2,10,000/-; that Sindhomal had deposited Rs.1,63,150/- as the cost of 251 bags; and that the appellant had failed to deposit the amount for the remaining bags and misappropriated the same. The appellant pleaded not guilty and claimed trial.⁴

4. The prosecution examined PW-1 Ghulam Shabbir Ghumro, Senior Clerk in the office of the District Food Controller, Khairpur; PW-2 Mir Muhammad Shah, who was posted as District Food Controller, Khairpur, on 22.01.2000, after the season; PW-3 Shoukat Ali Soomro, the District Food Controller during the season and author of the report; and PW-4 Himath Ali Chandio, Circle Officer, ACE Khairpur, the investigating officer. PW-3 produced his report and the list of defaulters; PW-4 produced the letters seeking permission, the FIR, and the letter directing submission of the

² FIR No.72/1999 dated 01.11.1999 (Ex.7/C); letter No.1300 dated 25.10.1999 of the District Food Controller, Khairpur (Ex.6/A) with list of defaulters (Ex.6/B).

³ Letter No.DD/ACE/R/3550-51 dated 21.04.2000 of the Deputy Director, ACE Sukkur (Ex.7/D).

⁴ Charge dated 25.09.2000 (Ex.2) and plea (Ex.3).

challan.⁵ No other documents were produced. The prosecution closed its case on 19.04.2012.

5. An application of the defence under Section 540 Cr.P.C. to recall witnesses was dismissed by the trial court on 29.06.2012. That order was assailed before this Court in revision, and this Court, finding that the trial court had not discharged its duty under Section 340 Cr.P.C. and Article 161 of the Qanun-e-Shahadat Order, 1984 (hereinafter referred to as “**QSO, 1984**”) when the witnesses were cross-examined by the accused in person, allowed further cross-examination of PW-1 and PW-2. On summons being issued, PW-1 was reported to have died, and the statement of the process server with the death certificate was recorded on 04.10.2017; PW-2 was further cross-examined on 11.01.2023, after which the prosecution again closed its side.⁶

6. In his statement under Section 342 Cr.P.C., the appellant denied the allegations. He stated that, under the office order dated 25.03.1999 of the District Food Controller, he was posted at WPC Sikandarabad and was never posted at WPC Nara Gate during 1998-99, and that nothing was outstanding against him. He produced the office order and two No Dues Certificates of the District Food Controller, Khairpur, dated 07.09.2016 and 17.11.2017. He did not examine himself on oath but opted to examine the District Food Controller, Khairpur, in his defence.⁷ On his application under Section 540 Cr.P.C., allowed by consent, DW-1 Munwar Ali Mirani, the serving District Food Controller, appeared and produced the office order dated 25.03.1999, the letter dated 04.10.1999 requiring the appellant to deposit 25 empty bardana of WPC Sikandarabad, the receipt for their deposit, the appellant's covering application, the transfer order dated 10.08.1999, and an N.C. report recording that the departmental record of the season was burnt on 09.05.2005. In cross-examination by the learned APG, he agreed with the suggestion that during 1998-99 the appellant was posted as in-charge of WPC Nara Gate and that, in collusion with Sundho Mal, he committed a

⁵ PW-1 Ex.4; PW-2 Ex.5; PW-3 Ex.6 with Ex.6/A and 6/B; PW-4 Ex.7 with Ex.7/A to 7/D.

⁶ Order of this Court in Cr. Revision Applications Nos. S-46, 48 and 50 of 2012, reproduced at para 5 of the impugned judgment; statement of the process server (Ex.A) with Ex.A/1 to A/4 dated 04.10.2017; further cross-examination of PW-2 dated 11.01.2023.

⁷ Statement under s.342 Cr.P.C. (Ex.11) dated 07.02.2023 with Ex.11/A to 11/C.

shortage of wheat bags, while conceding that he had produced no bank challan or office order in support.⁸

7. The trial court framed three points for determination: whether, during 1998-99, the appellant was posted as Food Supervisor and in-charge of WPC Nara Gate, being a public servant; whether he, in collusion with Sindhumal, committed a shortage of 300 Government wheat bags worth Rs.2,10,000/- and caused wrongful loss to the exchequer; and what offence, if any, he had committed. It answered the first point in the affirmative, held the second proved, and convicted and sentenced the appellant as stated above.

8. Learned counsel for the appellant contends that the impugned judgment is the result of misreading and non-reading of evidence; that the prosecution failed to prove that the appellant was posted at WPC Nara Gate during the relevant season, the departmental record produced at the trial showing that he was in charge of WPC Sikandarabad; that only 25 empty bardana were outstanding against that centre, which he deposited on 04.10.1999, and nothing else; that no stock register, reconciliation or other primary record was produced to establish any shortage, much less its misappropriation by him; that Sindhu Mal, named in the FIR and the notified in charge of WPC Nara Gate, was neither tried nor examined; that the District Food Controller himself certified in 2016 and 2017 that nothing was outstanding against the appellant; and that the trial court convicted him on the strength of an answer given by his own defence witness about matters of which that witness had no knowledge. He has relied, among other authorities, on **Muhammad Samiullah**.⁹

9. Learned Additional Prosecutor General has supported the impugned judgment. He submits that the District Food Controller of the season has deposed, from his own knowledge, that the appellant was in charge of WPC Nara Gate along with Sindhu Mal; that the shortage of 551 bags was reported by the department after reconciliation of the season's accounts; that the appellant has not deposited the cost of the 300 bags apportioned to him;

⁸ Deposition of DW-1 Munwar Ali Mirani (Ex.13) dated 05.05.2023 with Ex.13/A to 13/F.

⁹ *Muhammad Samiullah v. The State* 2022 SCMR 998.

and that his own witness, the serving District Food Controller, has admitted the prosecution case. He has relied upon **Zulfiqar Ali**.¹⁰

10. I have heard learned counsel for the parties and have gone through the record with their assistance.

11. Two questions arise. First, whether the prosecution has proved that the wheat stock of WPC Nara Gate was entrusted to the appellant or was under his control as a public servant. Secondly, whether it has proved that he dishonestly misappropriated or converted that stock, or wilfully allowed another to do so. Unless both are answered in the affirmative, the convictions cannot stand.

12. Section 405 PPC defines criminal breach of trust, and Section 409 punishes it when committed by a public servant in respect of property entrusted to him, or over which he has dominion, in that capacity. Section 5(1)(c) of the Act makes it criminal misconduct for a public servant dishonestly or fraudulently to misappropriate or otherwise convert to his own use property entrusted to him or under his control as such, or to allow any other person so to do; Section 5(2) makes the misconduct punishable with imprisonment up to seven years, or with fine, or with both. The two provisions have a common core. In either case, the prosecution must prove, first, entrustment of the property or dominion over it, and secondly, dishonest misappropriation, conversion, use, or disposal by the accused, or his wilfully suffering another to do so. The Federal Court laid this down nearly seventy years ago in **Shakir Hussain**¹¹, and the law has not moved from it. The burden of proving both ingredients rests on the prosecution throughout (Articles 117 and 120 of QSO, 1984); it does not shift to the accused because he has taken a plea, and the weakness of his defence is no substitute for proof. Oral evidence must be direct (Article 71), and where a party withholds evidence within its power and control, the court may presume that it would, if produced, have gone against that party [Article 129(g)]. A

¹⁰ *Zulfiqar Ali v. The State* 2025 SCMR 100.

¹¹ *Shakir Hussain v. The State* PLD 1956 FC 417.

single circumstance creating a reasonable doubt in a prudent mind entitles the accused to its benefit as of right, not as a matter of grace.¹²

13. The trial court answered this question in the affirmative on the strength of the examination-in-chief of PW-1, PW-2 and PW-3, and of the answer given by DW-1 in cross-examination. The appellant was held to have “with mala fide intention” denied his posting at WPC Nara Gate.¹³ With respect, this approach puts the matter the wrong way round. The question is not whether the appellant has proved that he was not posted at WPC Nara Gate; it is whether the prosecution has proved that he was posted there and that the stock of that centre was in his charge.

14. The prosecution’s own evidence answers that question against it. PW-1 was the Senior Clerk who, on his own account, consolidated the figures of the season. In cross-examination, he admitted that under the office order dated 25.03.1999 the appellant was posted as Food Supervisor, Sikandarabad; that the District Food Controller, by his order dated 08.04.1999, posted Sundhoomal as centre in-charge, Nara Gate, and, because no bank had been allotted to that centre, directed both officials to sign the bills jointly for Sikandarabad and Nara Gate; that the appellant was authorised to draw payment from the National Bank of Pakistan, Choondiko branch, only in his capacity as in-charge, Sikandarabad; and that under the letter dated 10.08.1999 the appellant was transferred from WPC Sikandarabad to Khairpur PRC, and, in terms, that the appellant “was only joint with Food Supervisor Sundhoo Mal incharge WPC Naragate only [for the] purpose of bank account” and “not responsible for the figure of the arrival, issue etc. in respect of WPC Naragate”.¹⁴ These are not loose answers extracted from an unwilling witness; the witness read the departmental orders into the record.¹⁵ The order of 08.04.1999 explains how the appellant’s name came to be coupled with that of Sindhu Mal in the paper

¹² *Tariq Pervez v. The State* 1995 SCMR 1345; *Najaf Ali Shah v. The State* 2021 SCMR 736; *Lal Khan v. The State* 2006 SCMR 1846.

¹³ Impugned judgment, paras 14, 27 and 28.

¹⁴ PW-1 (Ex.4), cross-examination.

¹⁵ Order of the District Food Controller dated 08.04.1999, as read into the record by PW-1 in cross-examination: “Mr. Sundhoomal Food Supervisor is hereby posted as centre incharge Nara Gate for wheat procurement 1998-99 crop. As such, bank has not been allotted, therefore, both the official viz. M/S Muhammad Iqbal and Sundhoo Mal should sign ... bill jointly, for the wheat procurement at Sikandarabad and Nara Gate.”

of WPC Nara Gate at all. He was a joint signatory to its bills for want of a bank account and nothing more.

15. The documents are to the same effect, and none of them was questioned by the prosecution. Office Order No. 332, dated 25.03.1999, posts the appellant at Sikandarabad alone.¹⁶ The transfer order dated 10.08.1999 of the Deputy Director Food describes him as “Food Supervisor Incharge Sikandarabad WPC centre under the District Food Controller Khairpur”.¹⁷ Most significant of all, PW-3 himself, as District Food Controller, wrote to the appellant on 04.10.1999, addressing him as “Incharge, Sikandarabad WPC” and requiring him to deposit 25 Government empty bardana of the crop year 1998-99 of the Sikandarabad centre, failing which an FIR would be registered; the bags were deposited at PRC Kotdiji the same day, and the appellant reported compliance. PW-3 admitted the letter in cross-examination and could say no more of any outstanding wheat than that he “must have” written a letter about it; none was produced.¹⁸ Three weeks later, the same officer reported a shortage of 551 bags at WPC Nara Gate against “Sundhoo Mal/Iqbal Hussain” jointly. A District Food Controller who, on 04.10.1999, treated the appellant as in charge of Sikandarabad with 25 empty bags to account for cannot, on the strength of his word alone, be taken to have proved that the appellant was the in-charge of a different centre with 551 bags of wheat to account for.

16. What remains on the side of the prosecution is assertion. PW-1’s statement-in-chief that the appellant was in charge of both centres is contradicted by his own cross-examination. PW-3’s statement that the appellant was in charge of WPC Nara Gate, with Sundhoomal as “co-incharge”, is contradicted by his own contemporaneous letter and by his own list, which pairs the two names against one centre.¹⁹ PW-2 candidly conceded that he was not the District Food Controller during 1998-99 and could not say where the appellant was posted; whatever he deposed, he took

¹⁶ Office order No.DFC/Estt-99/332 dated 25.03.1999 (Ex.11/A and Ex.13/A), serial No.4.

¹⁷ Office order No.10(03)/ADMN/98-99/1307 dated 10.08.1999 of the Deputy Director Food, Sukkur (Ex.13/E); its wording was also admitted by PW-1 in cross-examination.

¹⁸ Letter No.DFC/KHP/99/1217 dated 04.10.1999 (Ex.13/B); receipt of the Centre Incharge, PRC Kotdiji, of the same date (Ex.13/C); the appellant’s covering application (Ex.13/D). PW-3 admitted the letter in cross-examination, giving its date as 4.10.1998, evidently for 1999.

¹⁹ PW-3 (Ex.6), examination-in-chief and cross-examination.

it from a record which he did not produce.²⁰ PW-4 merely denied the suggestions put to him. The list of defaulters (Ex.6/B) is a compilation prepared by the complainant; it is not the stock record and proves nothing beyond what its author chose to write in it.

17. The trial court placed decisive weight on DW-1's cross-examination answers. That reliance is misplaced for three reasons. First, DW-1 was the District Food Controller in 2023. He had no personal knowledge of the 1998-99 season and stated that the departmental record of that season was burnt on 09.05.2005.²¹ His assent to the suggestion that the appellant was in charge of WPC Nara Gate and "committed shortage" was therefore not testimony to a fact within his knowledge; it was opinion, which Article 71 of QSO, 1984 does not permit to be received as proof of a fact. Secondly, those answers contradict the very documents he had produced and vouched for a few lines earlier, and he conceded that he had neither a bank challan nor any order to support them.²² A witness who swears to a document and then assents to a suggestion contrary to it proves, at best, that he does not know; the court cannot pick the incriminating half of such testimony and discard the rest. Thirdly and more fundamentally, the answers of a defence witness are not admissions of the accused. The guilt of an accused is to be proved by the evidence led by the prosecution; it cannot be built upon what a defence witness, ignorant of the facts, is persuaded to concede in cross-examination.

18. On a fair reading of the entire evidence, the prosecution has not proved that the wheat stock at WPC Nara Gate was entrusted to the appellant or was under his control. The department's own orders placed him at WPC Sikandarabad and made Sindhu Mal the in-charge of WPC Nara Gate. The first question is answered in the negative, and that alone is sufficient to dispose of the appeal. Since the matter has been argued at length on the second question as well, I proceed to deal with it.

19. Even on the assumption that the appellant was in charge of WPC Nara Gate, the conviction could not be sustained. The case is one of an

²⁰ PW-2 (Ex.5), cross-examination dated 23.10.2004: "I was not posted as DFC during the year 1998-99 as such I could not say whether you were independently posted as incharge at WPC Sikandarabad and not at Naragate."

²¹ N.C. report of P.S. 'B' Section, Khairpur (Ex.13/F): record burnt on 09.05.2005.

²² DW-1 (Ex.13), cross-examination by the learned APG.

alleged book shortage, yet not one book was produced. There is no arrival register, no daily issue or despatch report, no balance stock report, no godown receipt, no reconciliation statement showing 551 bags short, no inquiry report, no recovery, no mashirnama, and no writing from the appellant acknowledging any liability. PW-1 spoke of the figures having been “consolidated at our office”; the consolidated statement was never exhibited.²³ The figures themselves do not remain consistent from one document to the next.²⁴ The apportionment of the shortage, 251 bags to Sindhu Mal and 300 to the appellant, rests on PW-2’s statement that “the record also reveals” that both had “agreed to deposit” the wheat in those proportions; PW-2 was not in office at the time, and the agreement he referred to was never produced.²⁵ The deposit by Sindhu Mal of the cost of 251 bags, on which the whole apportionment depends, is not proved by any challan or receipt; DW-1 conceded that none is on the file.

20. The trial court relied on Karim Jan²⁶, in which the Supreme Court declined to interfere with a conviction for shortage of stores because the deficiency had been proved from the original stock registers, which were before the witnesses and the court. That decision marks a distinction rather than a parallel. Here, the departmental witnesses deposed in 2001, 2004 and 2005, while the record of the season admittedly existed and produced nothing from it; the record was burnt only on 09.05.2005. The best evidence was within the power of the prosecution and was withheld, and the presumption under Article 129(g) of QSO, 1984 operates against it. The two decisions of the Lahore High Court relied upon by the trial court likewise turned on an official record that had been produced and proved at the trial.²⁷

21. Shortage, moreover, is not misappropriation. Dishonest misappropriation or conversion is a distinct ingredient and it has to be proved against the

²³ PW-1 (Ex.4), examination-in-chief: “the arrival, issue and balance figures were consolidated at our office, which shows that the accused has failed to despatch 551 bags of the wheat from these two centres”.

²⁴ FIR (Ex.7/C) and Ex.6/A: 551 bags valued at Rs.3,85,700/-; charge (Ex.2): 251 bags at Rs.1,63,150/- and 300 bags at Rs.2,10,000/-. Ex.6/B, dated 25.10.1999, shows the entire Rs.3,85,700/- as still recoverable from both officials.

²⁵ PW-2 (Ex.5), examination-in-chief.

²⁶ *Karim Jan v. The State* 1983 SCMR 288, relied upon at para 32 of the impugned judgment.

²⁷ *Muhammad Aslam Gondal v. The State* 2006 MLD 261 and 2006 PCr.LJ 390, relied upon at paras 31 and 34 of the impugned judgment.

particular accused. Nothing on this record shows what became of the wheat removed by the appellant, whether he sold or retained any part of it, or whether he derived any gain. A shortage in departmental accounts, divided between two officials by an administrative decision and then prosecuted against one of them, is not proof that the one dishonestly converted the Government's wheat. The Supreme Court has consistently so held. In **Muhammad Samiullah**²⁸, the conviction of a laboratory in-charge for misappropriation of equipment rested on the testimony of four witnesses from his own department and an alleged admission made in a departmental inquiry; the Court found that there was no direct evidence connecting him with the offence, that the inventory of the articles was not even given in the crime report, and that where the prosecution case rests on indirect evidence the safest course must be adopted; the conviction was set aside. In **Dr. Waqar Hameed**²⁹, the Court acquitted because it was not the case of the prosecution that any property had been entrusted to the accused which he misappropriated, the incriminating documents had not been put to him under Section 342 Cr.P.C, and the trial court had framed a single charge under Section 409 PPC read with Section 5(2) of the Act without discussing any evidence of criminal misconduct, observing that a separate charge is required for each distinct offence. In **Abdul Hameed**³⁰, the convictions were set aside because there was nothing on the record to show that the accused had dishonestly misappropriated the property or converted it to their own use, and the actual beneficiary had not been put on trial. Most recently, in **Muhammad Rashid**³¹, the Court acquitted two postal officials of embezzlement because the departmental inquiry had not been conducted as the Post Office Manual required and the matter was, in its words, shrouded in mysteries and doubts. Each of these features is present here in one form or another.

22. Three further aspects of the record bear on the second question. The first concerns Sindhu Mal. He was named in the FIR as a co-accused; by the District Food Controller's own order, he was the in-charge of WPC Nara

²⁸ *Muhammad Samiullah* (n.9 above).

²⁹ *Dr. Waqar Hameed v. The State* 2020 SCMR 321.

³⁰ *Abdul Hameed v. The State* 2024 SCMR 1365.

³¹ *Muhammad Rashid v. The State* 2026 SCMR 145.

Gate; and he was examined by the investigating officer during the investigation.³² He was neither tried (the file records only a decision for departmental action, without any reason) nor produced as a witness. He was the one person who could have told the court what happened to the stock of WPC Nara Gate and whether any part of it passed into the appellant's hands. His non-production attracts the presumption under Article 129(g) of QSO, 1984. The charge, moreover, alleged that the appellant acted "in collusion with" him; collusion is a fact to be proved, and no witness deposed to a single act of the appellant in concert with Sindhu Mal.

23. The second concerns the No Dues Certificates. The District Food Controller, Khairpur, certified on 07.09.2016 and again on 17.11.2017 that, as per the office record, nothing was outstanding against the appellant.³³ The prosecution neither challenged these certificates nor explained them. They do not, by themselves, establish innocence, but they cannot be reconciled with the finding of the trial court that it was "an admitted position on the record" that the cost of 300 bags remained outstanding against the appellant,³⁴ and they were a circumstance which the trial court was bound to weigh and did not.

24. The third concerns the manner in which the trial court dealt with the authorities cited before it. It distinguished them on the footing that the appellant had "also been convicted" the same day in four other special cases "of the same nature".³⁵ Convictions recorded in separate trials, on separate evidence, could not supply proof of guilt in this case; the appellant's character was not in issue, and Article 68 of QSO, 1984 renders it irrelevant. Each case has to be decided on its own record, and reliance on those convictions was an irrelevant consideration that coloured the appreciation of evidence.

25. The decision relied upon by the learned Additional Prosecutor General does not advance the case of the State. In **Zulfiqar Ali**³⁶, the convict, having deposited the embezzled amount, informed the Supreme Court that he did

³² PW-4 (Ex.7), examination-in-chief: "I also examined one Sindhu Mal whose name was also appear in the report of DFC, Khairpur."

³³ No Dues Certificates No.DFC/KHP/2016/1746 dated 07.09.2016 and No.DFC/KHP/2017/1400 dated 17.11.2017 (Ex.11/B and 11/C).

³⁴ Impugned judgment, para 29.

³⁵ Impugned judgment, para 38.

³⁶ **Zulfiqar Ali** (n.10 above).

not wish to contest the petition and placed himself at its mercy for reduction of sentence; the Court maintained the conviction because it was not challenged, reduced the sentences to those already undergone, and reduced the fines of Rs.2,50,000/- under each count to Rs.40,000/- and Rs.10,000/-, respectively. The decision lays down nothing on the appreciation of evidence in a contested case. If it has any bearing on the present appeal, it is on the question of sentence, which, in the view I have taken, does not arise.

26. It was faintly argued that the FIR was delayed. The season closed by July 1999; the report is dated 25.10.1999 and the FIR 01.11.1999. In a matter that depends on reconciliation of the season's accounts, a gap of this order is explicable, and I do not rest the decision on it. Nor is it necessary to examine the other grounds urged on behalf of the appellant.

27. The upshot of the above discussion is that the prosecution has failed to prove either of the two facts on which alone a conviction under Section 409 PPC or Section 5(2) of the Act can rest. The department's own orders, admitted by its own witnesses, placed the appellant at WPC Sikandarabad and made Sindhu Mal the in-charge of WPC Nara Gate, with the appellant being joined with him only as a signatory of bills. No primary record was produced to prove any shortage, although such records existed when the departmental witnesses deposed. No evidence shows dishonest misappropriation or conversion by the appellant, as distinct from a book shortage administratively divided between two officials, one of whom was neither tried nor examined. The finding of guilt rests on the assertions of officers who either had no personal knowledge or contradicted their own documents, and on the opinion of a defence witness about matters beyond his knowledge. Each of these circumstances creates a reasonable doubt; the law requires only one, and its benefit goes to the accused as of right.³⁷ The impugned judgment suffers from misreading and non-reading of the evidence and cannot be sustained.

28. Consequently, this appeal is **allowed**. The impugned judgment dated 24.08.2023 passed by the trial court in Special Case No.128 of 2000 is set aside and the appellant Iqbal Hussain son of Muhammad Mithal Jumani is

³⁷ *Tariq Pervez; Najaf Ali Shah; Lal Khan* (n.12 above).

acquitted of the charge by extending to him the benefit of doubt. He is present on bail; his bail bond stands cancelled and his surety is discharged.

J U D G E

Abdul Basit