

Banking Undergone

497

## IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Mohammad Karim Khan Agha  
Mr. Justice Khadim Hussain Tunio.

Criminal Appeal No.508 of 2018.

Appellant	Imran Ali S/o. Noor Muhammad through M/s. Noor Muhammad Dayo and Dleep Kumar Manglani, Advocates.
Respondent	The State through Mr. G.M. Bhutto, Assistant Attorney General.
Date of hearing	10.04.2023.
Date of Judgment	10.04.2023.

### JUDGMENT

Mohammad Karim Khan Agha, J:- The appellant Imran Ali S/o. Noor Muhammad was tried in the Special Court (Offences in Banks) Sindh at Karachi in Case No.13/2017 pursuant to FIR No.10/2017, FIA CBC, Karachi U/s. 420/468/471/511 PPC and vide Judgment dated 29.09.2018 the appellant was convicted and sentenced as under:-

- a) Accused Imran Ali S/o. Noor Muhammad is convicted U/s. 471 PPC and sentenced to suffer 02 years R.I. and fine of Rs.50,000/-. In case of nonpayment of fine he shall suffer further S.I. for 6 months.
- b) He is convicted U/s. 420 PPC r/w section 511 PPC and sentenced to suffer 01 years R.I. and fine of Rs.25,000/-. In case of nonpayment of fine he shall suffer further S.I. for 03 months.

2. The brief facts of the case are that Dubai Islamic Bank Pakistan Limited M.A. Jinnah Road Branch, Quetta received a Pay Order in the name of clearing on 3<sup>rd</sup> June, 2016 amounting to Rs.3 million favoring "The Executive Engineer Public Health Division Jacobabad" on account of "Bisma Enterprises" dated 10<sup>th</sup> May, 2016 via NIFT from NBP Tower Road Branch Jacobabad. The Pay Order was provided to the department in lieu of

government tender by M/s. Bisma Enterprises. Upon scrutiny of the branch the subject Pay Order was confirmed as "fake" and was not issued by the bank. The original fake Pay Order was held by the branch, hence the FIR was lodged against the accused.

3. The prosecution in order to prove its case examined 11 Prosecution Witnesses and exhibited various documents and other items. The appellant in his section 342 Cr.P.C. statement denied the allegations against him. However, he did not give evidence on oath and did not call any DAW in support of his defence case.

4. After hearing the parties and appreciating the evidence on record, the trial court convicted and sentenced the appellant as set out earlier in this judgment; hence, the appellant has filed this appeal against his conviction.

5. The facts and evidence have been reproduced in detail in the impugned judgment and as such there is no need to reproduce them in order to avoid any duplication and unnecessary repetition.

6. At the very outset, learned counsel for the appellant stated that under instructions of the appellant who is present in Court on bail has stated that he did not wish to argue the case on merits and accepted his guilt provided that he was given reduction in the sentence based on the following mitigating circumstances:-

- a) That the appellant is first time offender and is capable of reformation.
- b) That the appellant had a large family to support.
- c) That by admitting his guilt the appellant has shown genuine remorse and;
- d) That the appellant has served a substantial part of his sentence.
- e) That no loss has been caused to any party.

7. Based on the above mitigating circumstances mentioned by the appellant, learned Assistant Attorney General had no objection to the reduction in sentence to some reasonable extent.

499

8. We have gone through the evidence on record and find that the prosecution has proved the charge against the appellant beyond any reasonable doubt through reliable and trustworthy oral evidence as well as documentary evidence which proves that the appellant had submitted a fake Pay Order of Rs.30,00,000/- and as such the conviction of the appellant is maintained.

9. With regard to sentencing based on the mitigating circumstances raised by the appellant and the no objection given by the learned Assistant Attorney General and keeping in view the relatively small amount involved, we hereby reduce the appellant's sentences in respect of all of his conviction to the time already spent in jail and waive off any fines payable by him. The bail bond of the appellant stands discharged and the appellant is free to go.

10. The appeal stand disposed of in the above terms.