

ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COU

Cr. Appeal No. S-45 of 2016

Date

Order with signature of Judge

For hearing of cases.

29-08-2017

Mr. Gada Hussain, DDPP for the State.

Appellant is present in person. Mr. Muhammad Afzal Jagirani advocate holding brief for Mr. Riaz Hussain Khoso advocate for the appellant.

I have heard the appellant in person as well as learned DDPP and have also examined the record.

For the reasons to be recorded later-on, instant appeal is allowed and the appellant is acquitted of the charge. He is present on bail, his bail bonds stand cancelled and surety discharged.



Judge

Abdul Salam P.A.

*Same order completed  
on dated 07-03-2018  
[Signature]  
27-02-18  
Bismillah*

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**IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA**

Crl. Appeal No. S- 45 of 2016.

Assadullah Budh.

.....Appellant.

**Versus**

The State.

.....Respondent.

Appellant in person.

Mr. Gada Hussain Abro, DDPP.

Date of hearing: 29.08.2017.

Date of Judgment: 29.08.2017.

**J U D G M E N T**

**Omar Sial, J-** Appellant Assadullah Budh has impugned a judgment dated 17.5.2016 passed by the learned Special Judge, Anti-Corruption (Provincial) Larkana. In terms of the said judgment the Appellant was convicted and sentenced to suffer rigorous imprisonment for 3 years and a pay a fine of Rs.50,000/- (or suffer rigorous imprisonment of 6 months more in default) for an offence under Section 409 PPC read with Section 5 (2) of the Prevention of Corruption Act-II, 1947.

2. Brief facts of the case are that on 23.02.2009 Niaz Hussain Khajar, Circle Officer of the Anti-corruption Establishment in Larkana lodged FIR bearing number 9 of 2009 under Section 409 PPC r/w section 5 (2) of the Prevention of Corruption Act-II, 1947 against the Appellant. It was stated that the Appellant was the Food Supervisor and Incharge of the Food Centre at Nasirabad. During the year 2000-2001 he was Incharge of 3746 wheat bags weighing 373.600 metric tons. At the time of accounts a shortage of 5.192 metric tons was discovered, which caused the government exchequer a loss of Rs.50,818.

3. The charge against the Appellant was framed on 29.6.2011 to which he pleaded not guilty and claimed trial.

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4. The prosecution examined two witnesses to prove its case. PW-1 Muhammad Punhal was the Head Clerk in the District Food Centre at the relevant time. PW-2 was the complainant.

5. The Appellant recorded his statement under Section 342 Cr.P.C on 17.2.2016, in which he pleaded his innocence.

6. I have heard the Appellant is person as well as the learned DDPP and examined the record with their assistance. My observations are as follows.

7. No reliable record was produced during trial to show the number of bags handed over to the Appellant and the number of bags received back. PW-1 admitted that out of shortfall claimed against the appellant at least 1.5 metric tons of bags were found damaged and that the same were returned by the Appellant. Not an iota of investigation was conducted in this case. No explanation was given as to why the case was registered after 8 years of the occurrence. All the prosecution witnesses deposed that all outstanding amounts against the name of the Appellant were deposited by him and that there is no outstanding against his name. Learned DDPP also confirms the same. In view of the evidence led in trial, substantial doubt was created in the prosecution case, the benefit of which should have gone to the Appellant.

8. Above are the reasons for my short order of 29.8.2017, in terms of which the appeal was allowed; the Appellant acquitted of the charge and as he was present on bail his bail bond was cancelled and surety discharged.

  
31/8/17  
JUDGE

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