

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA  
Crl. Acquittal Appeal No. S- 26 of 2016.

Nizamuddin Chacher.

.....Appellant.

**Versus**

Sartraz Ahmed & others.

.....Respondents.

Mr. Rafique Ahmed K. Abro, Advocate for appellant.  
Mr. Sardar Ali Rizvi, D.P.G.

Date of hearing: 11.08.2017.

Date of Judgment: 11.08.2017.

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

Omar Sial, J.- The appellant has impugned a judgment dated 28.04.2016 passed by the learned Sessions Judge, Kashmore @ Kandhkot. In terms of the said judgment, the respondent No.1 was acquitted in Crime No.21/2015, registered under Sections 406, 420, 489-F.P.P.C at P.S Gublo Katcho, District Kashmore @ Kandhkot.

Brief facts of the case are that the appellant/ complainant Nizamuddin lodged aforementioned F.I.R, alleging therein that accused/ respondent No.1 had promised him that he would get jobs in the Local Government department and the Education department for the jobless people of the complainant's village subject to payment of a certain amount. It was alleged by the appellant that he collected rupees six million from 15 to 20 different persons and gave this amount to the respondent No.1. The respondent No.1 was unable to get the jobs he promised and upon the demand of the appellant that he should return the money which was given to him earlier, the respondent No.1 gave a

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cheque bearing No.6438682 drawn on the Rohri Branch of National Bank of Pakistan for an amount of Rs.6 million. When the appellant went to encash the said cheque, he was informed that there was not sufficient money in the account.

The trial against the respondent No.1 commenced in the Court of learned 1<sup>st</sup> Civil Judge & Judicial Magistrate, Kashmore, and on 11.03.2016 the learned trial Judge convicted and sentenced the respondent No.1 to R.I for two years. The judgment of the trial Court was impugned by the respondent No.1 and the learned Sessions Judge, Kashmore @ Kandhkot, over turned decision of the trial Court and acquitted the accused/ respondent No.1.

I have heard the learned counsel for the appellant and respondent No.1 as well as learned DPG and with their assistance have examined the record. My observations are as follows:

- (i) The learned counsel for the appellant has been unable to point out any illegality or jurisdictional error in the impugned judgment. He has further been unable to show that there is any non-reading or mis-reading of evidence in the impugned judgment or that the same is perverse, arbitrary or capricious.
- (ii) The learned counsel has frankly conceded that to date the appellant has not filed any suit for recovery and neither are there any details available of the jobless people, the appellant claims to have collected money from them, which he gave to the respondent No.1. Similarly, there is not any documentary

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evidence to show that any loan or obligation is owed to the complainant by the respondent.

- (iii) Leaned counsel has also not been able to show that even if the cheque was issued by the respondent No.1, the same was done dishonestly.

In view of the above and keeping in mind the fact that a double presumption of innocence also works in favor of the accused/ respondent No.1, this criminal acquittal appeal was dismissed vide short order dated 11.08.2017 and these are the reasons for the same.

 15/8/17  
JUDGE

Ansari/\*