

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Revision Application No.S-54 of 2025

Applicants: (i). Muhammad Shakeel s/o Shoukat Ali.
(ii). Faisal s/o Shoukat Ali.
Through M/s. Ghulamullah Chang and Mr. Shahid Mirbahar, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, D.P.G Sindh.

Complainant: Abdul Saleem s/o Natho Khan.
Through Mr. Abdul Waheed Baloch, Advocate

Date of hearing: 29.01.2026

Date of Order: 06.02.2026

O R D E R

Miran Muhammad Shah, J-: Through this Criminal Revision Application, the applicants/accused namely Muhammad Shakeel and Faisal have challenged the judgment dated 12.09.2022, passed by the learned Additional Sessions Judge-I, Tando Adam, in Criminal Appeal No. 07/2022 (Re: Muhammad Shakeel & another v. The State), whereby their appeal was dismissed. The said appeal had been filed against the judgment dated 26.05.2022, passed by the learned Judicial Magistrate-I, Tando Adam Diplo, whereby applicants were convicted for the offence under Section 489-F PPC and sentenced them to undergo R.I for two years and to pay fine of Rs.15000 (Fifteen Thousand) each and in default to pay fine further to serve simple imprisonment for period of two months Benefit of Section 382-B Cr.P.C was extended to them. The aforesaid convictions arises out of Crime No.66/2021, registered at Police Station Tando Adam City, under Sections 489-F PPC. Being aggrieved by the concurrent findings of the Courts below, the applicants have approached this Court seeking setting aside of the impugned judgments.

2. The details and particulars of the F.I.R are already available in the contents of impugned judgments, as such, need not to reproduce the same hereunder.

3. After completion of trial, the learned Judicial Magistrate-I, Tando Adam, vide judgment dated 26.05.2022, convicted the applicants under Section 489-F PPC and sentenced them to undergo R.I for two years

along with fine of Rs.15,000/- each, and in default thereof to further suffer simple imprisonment for two months, while extending the benefit of Section 382-B Cr.P.C to them. The appeal filed by the applicants was dismissed by the learned Additional Sessions Judge-I, Tando Adam, vide judgment dated 12.09.2022.

4. Learned counsel for the applicants contends that the impugned judgments are contrary to law and natural justice, passed without proper judicial mind. He submits that the prosecution failed to prove guilt beyond reasonable doubt. The cheques were issued as security, encashable only upon clearance of property claims from the Evacuee Trust Properties Board and establishment of title. One cheque was misused by the complainant, prompting the applicants to stop payment on remaining cheques. The property's title is claimed by the Evacuee Trust Properties Board, and the applicants have been paying rent, with receipts on record. The alleged rent agreement is denied and claimed to be forged. Even if cheques were issued as advance, it does not create a legally enforceable obligation. The ingredients of Section 489-F PPC are not made out, and the courts misapprehended evidence; the judgments may be set aside and the applicants acquitted.

5. Learned Deputy Prosecutor General and counsel for the complainant submitted that the impugned judgments were passed according to law with proper judicial consideration. They contended that the trial Court rightly convicted and sentenced the applicants, and the appellate Court correctly upheld the trial Court's judgment. The judgments are free from illegality or infirmity, and they prayed for dismissal of the application.

6. I have heard the learned counsel for the applicant as well as the counsel for the respondent/complaint. So also the learned DPG. There is no provision of law for filing any further appeal before this court therefore present criminal revision has been filed under section 435 CRPC read with section 439 CRPC which is brought under consideration. It is an admitted position that the cheques were to be used only for the purpose of security and were not to be encashed. It is a settled law that under section 489F PPC the issuance of cheque was to be accompanied by dishonest intent and were in discharge of a legally unforeseeable obligation or liability. In the present case, in absence of any rent agreement question arises whether there was any lawful obligation in

existence at the time of lodgment of FIR. The legislature in order to prevent any misuse of the set provision of section 489F PPC impose certain restrictions to ensure that only cases involving dishonesty and lawful obligation should be treated as an offence under the present law. It is a settle dicta laid down by the honourable Supreme Court that the cheques which are given as security in connection with an agreement and not for repayment of loan or for any existing legal obligation cannot be treated as a crime under 489F PPC if the cheque is dishonoured. It is also observed that one of the present cheque was stopped for payment before the cheque was presented for encashment. Such action does not fall within the ambit of MENS REA, hence the criminal proceedings cannot take place. It is also observed after perusing the R&P of the case that no original copy was produced before the trial court of the rent agreement. Failure to produce such document does not show that an existing obligation was there in the present case, which is the requirement of the current law for conviction. Even otherwise this is a matter purely of civil nature which falls under the rental law of the land. However, it is being dragged into criminal proceedings but section 489F PPC is not intended to be weaponized to settle civil disputes regarding title or ownership. When parties are already in litigation regarding the underlined contract the matter is of civil nature and criminal prosecution is an abuse of process of law. The present trial also suffered from a procedural illegality where the trial court conducted a joint trial for two different and distinct accused, when two different cheques of NIB bank and Meezan Bank were dealt with. These two cheques belonged to two separate bank accounts, two separate instruments and two distinct acts of dishonour. Section 233 CRPC mandates a separate charge and trial for every distinct offense. Misjoinder of charge causes prejudice to the accused. Hence, vitiates the trial resultantly this case gives a reasonable doubt to the present applicant accused's case. The prosecution has left many lacunas in proving its case beyond reasonable doubt the benefit of which shall go to the accused. Therefore the present criminal revision application no.S-54 of 2025 is allowed and the judgement dated 12/9/2022 passed by the Additional Sessions Judge-I Tando Adam in criminal appeal no.7 of 2022 is set aside and the present applicants accused are acquitted of the charge framed against them.

JUDGE