HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Acquittal Appeal No.S-53 of 2026
[Ghulam Abbas vs. The State]

Mr. Muhammad Jameel, advocate for appellant

Date of hearing: 17.06.2026

Date of decision: 17.06.2026

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J U D G M E N T

TASNEEM SULTANA, J:- Through the instant Criminal Acquittal Appeal, the appellant/complainant Ghulam Abbas son of Muhammad Siddique Soomro has assailed the judgment dated 11.05.2026 passed by the learned Civil Judge & Judicial Magistrate-I, Matli, in Criminal Case No.185 of 2025, arising out of FIR No.232 of 2025, registered at Police Station Matli, under Section 489-F, P.P.C., whereby the respondent/accused Atta Muhammad son of Rasool Bux Notkani was acquitted of the charge under Section 245(1), Cr.P.C., by extending him benefit of doubt.

2. Brief facts of the prosecution case are that the complainant Ghulam Abbas alleged that the respondent/accused used to borrow amount from him and return the same. On 10.08.2025, at about 1100 hours, the respondent/accused allegedly came to the Otaque of the complainant and stated that he was going to purchase a Toyota Hiace air-conditioned vehicle and needed Rs.30,00,000/-, further stating that his committee/VC would be received on 10.09.2025 and he would return the amount. The complainant allegedly paid Rs.30,00,000/- to the respondent/accused from his pension amount in presence of Muhammad Sadique and Shakeel Ahmed. Thereafter, on 11.09.2025, the respondent/accused allegedly issued cheque bearing No.73721200, dated 11.09.2025, for Rs.30,00,000/-, drawn on Meezan Bank, Matli Branch, from account No.0098940108154165. The complainant deposited the cheque in his account maintained at UBL Bank, Matli Branch, but the same was dishonoured on 15.09.2025 due to dormant account. After approaching the Court under Sections 22-A & 22-B, Cr.P.C., FIR was registered against the respondent/accused.

3 After completion of investigation, challan was submitted before the learned trial Court. Formal charge was framed against the respondent/accused, to which he pleaded not guilty and claimed trial. In order to prove the charge, the prosecution examined PW-1 complainant Ghulam Abbas at Exh.3, who produced original cheque, memo and copy of FIR; PW-2 Muhammad Sadique at Exh.4; PW-3 Shakeel Ahmed at Exh.5; PW-4 SIP Rajab Ali, Investigating Officer, at Exh.6, who produced FIR entry, memo of site inspection, departure and arrival entries, letter

addressed to bank manager and verification letter; and PW-5 Abdul Majid, bank manager, at Exh.7. Thereafter, prosecution closed its side. Statement of the respondent/accused under Section 342, Cr.P.C. was recorded, wherein he denied the allegations and professed innocence. On an application moved by the respondent/accused, Abdul Basit, Account Manager of Hi-Tac LPG, was examined as Court witness at Exh.10. After hearing the parties, the learned trial Court acquitted the respondent/accused vide impugned judgment dated 11.05.2026.

4. Learned counsel for the appellant/complainant contends that the impugned judgment is contrary to law and facts of the case; that the learned trial Court failed to appreciate that the cheque belonged to the account of the respondent/accused and was dishonoured due to dormant account; that the complainant and his witnesses supported the prosecution case regarding payment of Rs.30,00,000/- to the respondent/accused; that minor contradictions were given undue importance; that the bank manager proved presentation and dishonour of the cheque; and that the respondent/accused did not take any legal action alleging misuse, theft or forgery of the cheque. He lastly contended that the impugned judgment suffers from misreading and non-reading of evidence and is liable to be set aside.

5. Heard learned counsel for the appellant and perused the available record.

6. Perusal of the record reflects that the allegation against the respondent/accused was that he obtained Rs.30,00,000/- from the complainant and, in discharge of such liability, issued the cheque in question, which was dishonoured due to dormant account. The learned trial Court, while acquitting the respondent/accused, examined the evidence of the complainant, his witnesses, the Investigating Officer and the bank manager in detail. The complainant claimed that a huge amount of Rs.30,00,000/- was paid in cash from his pension amount, but no documentary proof regarding withdrawal of such amount, pension record, bank statement, receipt, agreement or any other supporting document was produced to establish advancement of such amount to the respondent/accused. In a case resting upon alleged financial liability, absence of such supporting material was a relevant circumstance for consideration.

7. The record further shows that the complainant, in his examination-in-chief, stated that he went to Police Station Matli on 15.09.2025 at 2200 hours and registered the FIR, whereas the FIR available on record shows that it was registered on 08.10.2025 at 2200 hours. The alleged dishonour had taken place on 15.09.2025, but FIR was lodged on 08.10.2025. This aspect was noticed by the learned trial Court and could not be treated as immaterial. Similarly, though PW-2 Muhammad Sadique and PW-3 Shakeel Ahmed supported the complainant to the extent of alleged payment, their evidence did not establish issuance of cheque by the respondent/accused in their presence. PW-3 Shakeel Ahmed rather stated that the

complainant told him that accused had given him a cheque. The learned trial Court, therefore, found that direct evidence regarding issuance of cheque in discharge of alleged liability was lacking.

8. It also appears from the record that prosecution evidence contained material inconsistencies regarding memo of site inspection. PW-2 Muhammad Sadique stated that he did not sign the memo of site inspection, while PW-3 Shakeel Ahmed also stated that he did not sign the memo and that the signature appearing thereon was not his. On the other hand, the Investigating Officer claimed that the memo was prepared in presence of said mashirs and was signed by them. The evidence of bank manager, at the most, proved presentation of the cheque and its dishonour due to dormant account, but such evidence by itself did not prove that the cheque was issued dishonestly by the respondent/accused in repayment of loan or discharge of legally enforceable obligation. The Court witness from Hi-Tac LPG did not support the plea of the respondent/accused regarding blank cheque; however, failure of the defence to establish its plea could not relieve the prosecution from its primary burden to prove the charge beyond reasonable doubt.

9. The learned trial Court has also relied upon the principle that mere dishonour of cheque does not automatically constitute an offence under Section 489-F, P.P.C., unless the prosecution proves that the cheque was issued with dishonest intention towards repayment of loan or fulfilment of an obligation. In the present case, the learned trial Court, after assessing the evidence, found that the prosecution failed to prove the necessary ingredients of Section 489-F, P.P.C. Such conclusion is based upon appreciation of evidence and does not appear to be perverse, artificial, arbitrary or shocking. The grounds urged by the appellant mainly seek reappraisal of evidence, which by itself is not sufficient to interfere with an acquittal judgment.

10 .It is well settled by now that the scope of appeal against acquittal is very narrow and there exists a double presumption of innocence in favour of the accused, and that the Courts generally do not interfere with the impugned judgment unless the same is shown to be perverse, arbitrary, foolish, artificial, speculative or ridiculous. The Hon'ble Supreme Court of Pakistan in the case of **Muhammad Riaz versus Khurram Shehzad and another (2024 SCMR 51)** has held as under:-

> *"10. The aforesaid set of circumstances creates misgivings and suspicions regarding the presence of the prosecution witnesses at the scene of the crime, and the discrepancies and defects in the investigation and the prosecution case pointed out by the learned High Court in the impugned judgment also colors the case in doubt and improbability. Therefore, the learned High Court rightly held that the prosecution badly failed to substantiate the case against the respondent No.1, and the learned Trial Court was not justified in convicting him on the strength of untrustworthy or uncorroborated evidence which was full of material contradictions, especially*

> *contradictions in the ocular and medical evidence. It is a well-settled exposition of law that in an appeal against acquittal, the Court would not ordinarily interfere and would instead give due weight and consideration to the findings of the Court acquitting the accused which carries a double presumption of innocence, i.e. the initial presumption that an accused is innocent until found guilty, which is then fortified by a second presumption once the Court below confirms the assumption of innocence, which cannot be displaced lightly."*

11 .In this regard, reference may also be made to the case of **State versus Abdul Khaliq and others (PLD 2011 SC 554)**, wherein the Hon'ble Supreme Court has held as under:-

> *"From the ratio of all the above pronouncements and those cited by the learned counsel for the parties, it can be deduced that the scope of interference in appeal against acquittal is most narrow and limited because in an acquittal the presumption of innocence is significantly added to the cardinal rule of criminal jurisprudence, that an accused shall be presumed to be innocent until proved guilty; in other words, the presumption of innocence is doubled. The courts shall be very slow in interfering with such an acquittal judgment, unless it is shown to be perverse, passed in gross violation of law, suffering from the errors of grave misreading or non-reading of the evidence, such judgments should not be lightly interfered and heavy burden lies on the prosecution to rebut the presumption of innocence which the accused has earned and attained on account of his acquittal. It has been categorically held in a plethora of judgments that interference in a judgment of acquittal is rare and the prosecution must show that there are glaring errors of law and fact committed by the Court in arriving at the decision, which would result into grave miscarriage of justice; the acquittal judgment is perfunctory or wholly artificial or a shocking conclusion has been drawn. Moreover, in number of dictums of this Court, it has been categorically laid down that such judgment should not be interjected until the findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous (Emphasis supplied). The Court of appeal should not interfere simply for the reason that on the re-appraisal of the evidence a different conclusion could possibly be arrived at, the factual conclusions should not be upset, except when palpably perverse, suffering from serious and material factual infirmities. It is averred in The State v. Muhammad Sharif (1995 SCMR 635) and Muhammad Ijaz Ahmad v. Raja Fahim Afzal and 2 others (1998 SCMR 1281) that the Supreme Court being the final forum would be chary and hesitant to interfere in the findings of the Courts below. It is, therefore, expedient and imperative that the above criteria and the guidelines should be followed in deciding these appeals."*

12. In the present case, after tentative examination of the record for the purpose of admission of this appeal, no patent misreading or non-reading of material evidence, perversity, arbitrariness or gross illegality has been pointed out in the impugned judgment. The learned trial Court has considered the prosecution evidence witness-wise and has assigned reasons for extending benefit of doubt to the respondent/accused. The view taken by the learned trial Court appears to be a possible and plausible view of the evidence available on record. Even if another view may be possible, that by itself would not furnish a lawful basis to interfere in

an appeal against acquittal.

13. For the foregoing reasons, no case for issuance of notice is made out. Consequently, the instant Criminal Acquittal Appeal is dismissed in limine.

JUDGE

Sajjad Ali Jessar