IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Acquittal Appeal No.131 of 2026

Appellant	:	M/s. Karachi Shipyard & Engineering Works through its authorized representative Cdr (R) Ali Sajjad Jaber, through Mr. Muhammad Nishat Warsi, Advocate.
Respondents	:	Nemo
Date of hearing	:	20.02.2026
Date of order	:	20.02.2026

O R D E R

TASNEEM SULTANA, J.— Through this Criminal Acquittal Appeal under Section 417(2) Cr.P.C., the appellant M/s Karachi Shipyard & Engineering Works has assailed the order dated 20-12-2025 passed by the learned Civil Judge & Judicial Magistrate-XIII (Model Trial Criminal Court-I), Karachi East, whereby respondents Shahid S/o Muhammad Ashraf and Niaz Muhammad S/o Noor Muhammad were acquitted under Section 249-A Cr.P.C. in case arising out of FIR No.541/2024 registered at Police Station Docks, Karachi West, for offences punishable under Sections 408, 420 and 34, P.P.C.

2. Brief facts of the prosecution case, are that the complainant, Commander Sajjad S/o Lal Hussain, posted as Deputy General Manager (Administration) at Karachi Shipyard & Engineering Works, reported that the organization had sent thirteen individuals to China for specialized technical training after executing formal agreements with each of them. According to the terms of the agreements, upon completion of training, they were required to resume duties and serve the organization for a specified period. During the training tenure, all responsibilities of the said individuals remained with the organization.It is alleged that the following persons were sent for training: Imran Haider son of Syed Ayub Shah; Adnan Khan son of Nawab Khan; Shafiq Ahmed Khan son of Misri Khan; Muhammad Adil son of Raja Pervez Akhtar; Niaz Akhtar; Nizamuddin son of Noor Muhammad; Aminullah son of Sahib Jan; Muhammad Sarfaraz Beg; Kashif Khan son of Khawaja Mir Khan; Muhammad Nauman Akhtar son of Muhammad Naseem; Umair Aziz son of Abdul Aziz; Haris Nisar son of Nisar Muhammad; Muhammad Tanveer son of Muhammad Bashir; and Shahid son of Muhammad Ashraf.The complainant further alleged that the above-named persons, at different times between 29-04-2021 and 22-05-2024, left their duties without prior information or permission and absconded from the organization, thereby violating the agreements executed

with the institution. Despite sincere efforts, they could not be traced or contacted. It is further alleged that the said individuals were entrusted with strategic project information of the organization and intentionally absconded without completing the terms of agreement, causing substantial financial loss to the institution. The complainant, therefore, requested initiation of legal action against them for breach of agreement, cheating and absconding in accordance with law.

3. After usual investigation, I.O submitted challan against the present respondents/accused persons. Necessary case papers were supplied and a formal charge was framed against them to which they pleaded not guilty and claimed trial.

4. In order to substantiate the accusation, the prosecution examined PW-01 Complainant authorised representative of M\S Karachi Shipyard & Reengineering Works Ali Sajjad Jabbar who produced employment contracts, foreign training agreements, surety bonds, undertakings and departmental correspondence, and PW-2 Muhammad Ismail serving as Manager at appellants Company.

5. On 03-09-2025, respondent/accused Shahid filed an application under Section 249-A Cr.P.C. seeking his acquittal on the premise that the allegations, even if taken at their face value, arose out of breach of service/training frond and did not constitute any criminal offence. The learned Court, after hearing the parties, accepted the said application and, while invoking powers under Section 249-A Cr.P.C., recorded acquittal. It is pertinent to note that during the course of hearing, learned counsel appearing for respondent Niaz Muhammad adopted the same grounds and contentions as agitated on behalf of respondent Shahid, consequently, the learned trial Court, applying the same reasoning, extended the benefit of acquittal to respondent Niaz Muhammad as well.

6. Heard. Record perused.

7. Since the prosecution case is structured upon alleged commission of offences under Sections 408 and 420, P.P.C., therefore, before undertaking appraisal of oral and documenry evidence, it would be advantageous to first examine the statutory architecture of the offences alleged by the prosecution so as to determine whether the material collected even prima facie satisfies the legal ingredients necessary to sustain criminal culpability. The respondents have been prosecuted for offences under Sections 408 and 420, P.P.C. It is essential to observe that Section 408 does not operate in isolation but is an

aggravated manifestation of the principal offence defined in Section 405, P.P.C., which lays down the foundational concept of criminal breach of trust.

8. Section 405, P.P.C. defines criminal breach of trust in the following terms:

> “Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property, in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust.

Entrustment is thus the sine qua non. The prosecution must establish that property or valuable security was entrusted, dominion vested, and dishonest misappropriation followed. Mere failure to discharge an obligation in the absence of dishonest conversion of entrusted properties does not satisfy penal threshold.

9. Section 408, P.P.C. provides punishment for criminal breach of trust committed by a clerk or servant and merely aggravates the offence by reason of employment status but does not dispense with proof of entrustment and dishonest conversion.

10. Section 420, P.P.C. contemplates cheating and dishonestly inducing delivery of property. Its essential ingredients are deception, fraudulent inducement, delivery of property and dishonest intention at the very inception of the transaction. Subsequent breach of promise does not constitute cheating unless mens rea existed from the beginning.

11. The prosecution case fundamentally revolves around execution of employment agreements, foreign training bonds and surety undertakings whereby the respondents undertook to serve the appellant-organization for a specified duration after completion of overseas training, failing which they were liable to compensate the training expenditure incurred upon them. Therefore, it is necessary to examine the prosecution evidence brought on record in order to determine whether the material collected during investigation and produced before the learned trial Court establishes the ingredients of the offences alleged against the respondents.

12. The complainant (PW-01) reiterated the allegations in his examination-in-chief; however, during cross-examination he conceded that the relationship between the parties was governed by service contracts and training bonds which envisaged recovery of expenditure in case of breach. He further acknowledged that the bond conditions themselves provided a civil recovery

mechanism in the event of non-fulfilment of service tenure. Significantly, he did not depose about entrustment of any movable property, funds or valuable security to the respondents, nor about any act of dishonest misappropriation.

13. Likewise, the supporting official witness (PW-02) confined his testimony to administrative facts relating to deputation of respondents for foreign training, expenditure incurred by the establishment and their subsequent non-joining. He did not attribute entrustment of property, funds or assets to the respondents capable of dishonest conversion, nor did he depose about any act of embezzlement, misappropriation or fraudulent appropriation.

14. The documentary evidence produced by the prosecution employment agreements, training bonds, surety undertakings and departmental correspondence do establish existence of contractual liability; however, they do not demonstrate entrustment of property or its dishonest misappropriation within the meaning of Section 405/408, P.P.C.

15. When the entire prosecution case is examined in the backdrop of the above statutory requirements, it becomes evident that the foundational ingredients necessary to sustain criminal conviction are conspicuously absent. The prosecution narrative fundamentally revolves around execution of employment agreements, foreign training bonds and surety undertakings whereby the respondents undertook to serve the appellant-organization for a specified duration after completion of overseas training, failing which they were liable to compensate the training expenditure incurred upon them. The gravamen of the accusation, therefore, arises from alleged breach of contractual obligations rather than from any act constituting entrustment of property followed by dishonest misappropriation or deception within the contemplation of Sections 408 and 420 P.P.C.

16. It is also of considerable significance that charge had already been framed and evidence of two prosecution witnesses had been recorded prior to the impugned acquittal. The learned Magistrate, therefore, invoked jurisdiction under Section 249-A, Cr.P.C. not at a premature stage but after evaluating the evidentiary material already available on record and forming a conscious judicial opinion that the essential ingredients of the alleged offences were not made out and that there existed no probability of conviction even if the trial were to proceed further. In such circumstances, continuation of the proceedings would have been a futile exercise, and the course adopted by the learned trial Court cannot be said to be illegal, perverse or without jurisdiction.

17. 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. 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. Judgment of acquittal should not be interjected until the findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous. The Court of appeal should not interfere simply for the reason that on the reappraisal 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. Reliance is placed upon ***The State and others v. Abdul Khaliq and others (PLD 2011 SC 554).***

Likewise, in ***Muhammad Zafar and another v. Rustam and others (2017 SCMR 1639)***, the Honourable Supreme Court reiterated:

> "We have examined the record and the reasons recorded by the learned appellate court for acquittal… No misreading of evidence could be pointed out… which would have resulted into grave miscarriage of justice. The learned courts below have given valid and convincing reasons for the acquittal… which reasons have not been found by us to be arbitrary, capricious or fanciful warranting interference… Even otherwise this Court is always slow in interfering in the acquittal of accused because it is well settled law that in criminal trial every person is innocent unless proven guilty and upon acquittal by a court of competent jurisdiction such presumption doubles."

18. It is also a settled principle that benefit of doubt is not a matter of grace but a matter of right. In ***Tariq Pervaiz v. The State (1995 SCMR 1345),*** it was held that if a single circumstance creates reasonable doubt in the mind of a prudent person regarding the guilt of the accused, the accused is entitled to benefit of doubt not as a matter of grace but as a matter of right.

19. Applying the settled principles governing appeals against acquittal, and keeping in view the cumulative infirmities discussed hereinabove, the view taken by the learned trial Court cannot be characterized as perverse, arbitrary or suffering from misreading or non-reading of evidence; rather, the

conclusions drawn are firmly rooted in the record and reflect lawful exercise of judicial discretion. At the highest, another view may possibly be conceived upon re-appraisal of evidence; however, mere possibility of a different conclusion does not furnish a valid ground for interference, particularly where the view adopted by the trial Court is plausible and legally sustainable and the presumption of innocence stands further reinforced by acquittal.

20. Consequently, the impugned judgment does not suffer from any illegality or material factual infirmity warranting interference by this Court in exercise of appellate jurisdiction; resultantly, the instant Criminal Acquittal Appeal is dismissed in limine.

JUDGE

Nadeem