

## IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Acquittal Appeal No.516 of 2025

Appellant : Habib Bank Limited through its authorized representatives Syed Shafiq Ahmed and Rais Mustafa, through Mr. Hassan Ali, Advocate.

Respondents : Nemo

Date of hearing : 04.03.2026

Date of order : 04.03.2026

### ORDER

**TASNEEM SULTANA, J.**— Through the instant Criminal Acquittal Appeal, the appellant Habib Bank Limited through its authorised representatives Syed Shafiq Ahmed and Rais Mustafa has called into question the judgment dated 15.05.2025 passed by the learned Consumer Protection Court/Civil Judge & Judicial Magistrate, Karachi East, in Criminal Case No.885 of 2023 arising out of FIR No.52 of 2023 registered at Police Station Saudabad, District Korangi, under Sections 420, 468 and 471, P.P.C., whereby respondent No.1 and respondent no 2 to 5 who accused, who had been shown as absconders during trial, were acquitted under Section 245(1), Cr.P.C.

2. The prosecution case was set into motion on the complaint of Syed Minhaj Kamal, who at the relevant time was serving as Operation Officer at HBL Malir Halt Branch, alleging that on 21.02.2023 respondent No.1 Mrs. Sonia visited the said branch and presented Cheque No.00002896 dated 20.02.2023 for encashment in the sum of Rs.950,000/-, purportedly issued by National Feeds Limited and drawn at HBL Lahore Corporate Centre. Upon scrutiny the cheque appeared suspicious, whereafter the bank officials initiated internal verification through banking channels. Upon receiving information that the cheque in question was fake, the matter was reported to the police; respondent No.1 was apprehended at the spot, and FIR was registered for the offences under Sections 420, 468 and 471, P.P.C.

3. After completion of usual investigation, I.O submitted charge sheet against the respondents \ accused. Necessary case papers were supplied, and formal charge was framed against respondent No.1 for offences under Sections 420, 468 and 471, P.P.C.; she pleaded not guilty and claimed trial whereas respondents No. 2 to 5 were declared absconders.

4. The prosecution examined three witnesses. PW-1 ASI Abdul Latif, the Investigating Officer, he produced FIR (Qaima), memo of arrest of the accused, statement recorded under Section 154 Cr.P.C., the bank's application addressed to the SHO, copy of email correspondence regarding verification of the cheque and the disputed cheque itself, as Exhibits-04 to 12 PW-2 Syed Minhaj Kamal, the complainant and Operation Officer of HBL Malir Halt Branch and PW-3 PI Athar Abbas.

5. The statement of respondent No.1 was recorded under Section 342, Cr.P.C., wherein she denied the allegations levelled against her by the prosecution and claimed her innocence. However, neither she examined herself on oath under section 340(2)Cr.P.C., nor opted to examine defence witness.

6. After hearing the learned counsel for respondent No.1 and learned ADPP for the state, learned trial Court, acquitted respondent No.1, and remaining absconding respondents vide impugned Judgment dated 15.05.2025, hence, this criminal acquittal appeal.

7. Learned counsel for the appellant, while addressing both on limitation as well as on merits, contends that the present appeal is within time and the objection raised by the office is misconceived; that while computing the period of limitation the day of the impugned judgment as well as the time requisite for obtaining the certified copy are liable to be excluded in terms of Section 12 of the Limitation Act, 1908; that after excluding the said period the present appeal falls within the period prescribed under Section 417(2-A), Cr.P.C.; and that the objection raised by the office regarding limitation is therefore not sustainable. On merits, the learned counsel further contends that the learned trial Court failed to appreciate the material available on record in its proper perspective; that the prosecution had produced sufficient evidence to establish that respondent No.1 presented the disputed cheque at the bank counter which, upon verification through banking channels, was found to be fake; that the act of presenting such cheque clearly constituted use of a forged document as genuine within the meaning of Section 471, P.P.C.; that the learned trial Court misdirected itself in discarding the prosecution case on technical grounds relating to investigation; and that the impugned judgment of acquittal is the result of misreading and non-reading of material evidence. Learned counsel therefore prays that the impugned judgment may be set aside.

8. Before advertizing to the merits of the case, the objection raised by the office regarding limitation requires determination. The record reflects that the impugned judgment was passed on 15.05.2025. The certified copy thereof was applied for on 16.05.2025 and was made ready on 12.06.2025, as evident from the copy application form available on record. The appeal was thereafter presented on 12.07.2025. In computing the period of limitation, the day on which the impugned judgment was passed as well as the time requisite for obtaining the certified copy are liable to be excluded in terms of Section 12 of the Limitation Act, 1908. Consequently, the period from 16.05.2025 to 12.06.2025 stands excluded from computation. After excluding the said period, the present appeal falls within the period of thirty days prescribed under Section 417(2-A), Cr.P.C. Learned counsel for the appellant has also placed reliance upon ***Shafqat Hussain Shah v. Sakina Begum (1987 CLC 664)***, wherein it has been held that the time requisite for obtaining the certified copy is to be excluded while computing limitation. In view of the above legal position, the objection raised by the office regarding limitation is not sustainable and is accordingly overruled. Having resolved the objection regarding limitation, the appeal is now examined on merits.

9. The prosecution examined three prosecution witnesses including the Investigating Officer, the complainant an Operation Officer of HBL Malir Halt Branch and the Duty Officer. The prosecution case essentially rests upon the allegation that respondent No.1 presented a cheque at the bank counter which, upon internal verification through email communication with the concerned branch, was suspected to be fake whereafter the matter was reported to the police and the present case was registered.

10. A careful examination of the record reveals that the authenticity of the disputed cheque was never verified from the issuing bank branch located at Lahore, nor was any confirmation obtained from National Feeds Limited, the purported issuer of the cheque. The Investigating Officer admitted that he did not visit the issuing branch to verify the cheque from the original banking record. It further appears that no representative of the said company was examined during investigation or at trial, and the disputed cheque was not sent to any forensic document examiner for examination of the signatures or handwriting appearing thereon. The alleged verification thus remained confined to internal email communication rather than independent verification from the issuing branch or the purported drawer of the cheque.

11. Since the allegations in the present case relate to offences under Sections 420, 468 and 471, P.P.C., it was incumbent upon the prosecution to establish that the cheque in question constituted a false or forged document within the meaning of law and that respondent No.1 knowingly used or attempted to use such document as genuine. However, in the absence of verification from the issuing branch, examination of the purported drawer of the cheque, or any forensic opinion regarding the disputed instrument, the prosecution evidence fails to establish the foundational fact that the cheque itself was a forged document, rendering the allegation of forgery unsupported by legally reliable evidence.

12. In these circumstances, the learned trial Court, upon appraisal of the evidence available on record, concluded that the prosecution failed to establish the essential ingredients of the alleged offences beyond reasonable doubt. The reasons assigned by the learned trial Court appear to be based upon a proper appreciation of the evidence and do not suffer from any misreading or non-reading of material available on record.

13. It is well settled by now that the scope of appeal against acquittal is very narrow and that there exists a double presumption of innocence in favour of the accused. The Courts ordinarily do not interfere with a judgment of acquittal unless the findings recorded therein are shown to be perverse, arbitrary, artificial, speculative or the result of grave misreading or non-reading of evidence. The Honourable Supreme Court of Pakistan in the case of *Muhammad Riaz versus Khurram Shehzad and another (2024 SCMR 51)* reiterated this principle and 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.”

14. A similar view has also been expressed by the Honourable Supreme Court in the case of ***State versus Abdul Khaliq and others (PLD 2011 SC 554)***, wherein it has been 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. 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.”

15. From the above authoritative pronouncements of the Honourable Supreme Court, it is manifest that, interference in an appeal against acquittal is permissible only where the judgment of the trial Court is shown to be perverse, arbitrary or based on grave misreading or non-reading of evidence. In the present case, the learned trial Court has examined the prosecution evidence in its correct perspective and assigned cogent reasons for concluding that the prosecution failed to establish the alleged offences beyond reasonable doubt. The findings recorded by the learned trial Court do not suffer from any perversity, arbitrariness or misreading or non-reading of evidence to warrant interference by this Court.

16. For the foregoing reasons, the instant Criminal Acquittal Appeal, being devoid of merit, is dismissed.

**JUDGE**