

any Province and from seeking any financial facility in the form of loan or advances from any financial institution controlled by Government for a period of ten {10} years from the date of their conviction, however, the benefit in terms of Section 382-B, Cr.P.C. was extended in their favour.

2. The facts giving rise to these appeals, briefly stated, in the reference are that pursuant to the complaints and press clippings with regard to fraudulent sale of 237 acres of government land in Deh Babar Bund, Taluka Thana Bola Khan, District Jamshoro, an inquiry was initiated against officials of Revenue Department and others, which was upgraded into investigation, wherein it was revealed that certain land of the government was sold out through fake and fraudulent entries in the record of rights, issuing sale certificates and execution of fake sale deeds causing a colossal loss to the national exchequer. Mst. Sabiha sold out 237 acres of government land bearing Khet No.228/2, 289/1, 289/2, 289/3 and 289/4, situated in Deh Babar Bund, Tapa Hathal Buth, Taluka Thana Bola Khan, District Jamshoro, to Mehmood Rangoonwala, Proprietor of M/s Terry World Textiles, through a fake conveyance deed bearing Registration No.1014 dated 31.12.2004 in collusion with officials of Revenue Department through false and fraudulent entries in the record of rights showing herself to be the owner of the said land. She also visited the office of Sub-Registrar Kotri alongwith her brother Javed Akhtar Qureshi and got registered a sale deed in favour of M/s Terry World Textile Mills through its proprietor Mehmood Rangoonwala on the basis of NOC obtained from Asadullah Solangi, the then Mukhtiarkar Revenue, Thana Bola Khan and received a sum of Rs.1.150 million in cash and Mehmood Rangoonwala purchased the land in question from Mst. Sabiha despite having knowledge that her name was not entered in the record of rights as owner of the said land and Asadullah Solangi, the then Mukhtiarkar despite having knowledge that she is not the owner of the said land recorded entry No.77 dated 20.10.1890 by removing original page and inserting another leaf in the record of rights and subsequent thereto issued sale certificate without verifying the area from Land Register. Javed Akhtar Qureshi, the brother of Mst. Sabiha accompanied her to the office of Sub-Registrar and identified her despite having knowledge

that her sister was not the owner of the said land while Ali Akbar Parhiar and Abdul Jabbar Soomro, the then Mukhtiarkar and Tapedar confirmed entry No.154 dated 12.01.2005 despite having knowledge that the land belongs to government. This led to filing a reference against six accused persons namely, Asadullah Solangi {appellant}, Ali Akbar Parhiar {appellant}, Abdul Jabbar Soomro {absconding accused}, Mehmood Rangoonwala, Mst. Sabiha and Javed Akhtar Qureshi, who in connivance with each other caused a loss of Rs.9.5 million to the national exchequer by grabbing 237 acres precious land of the government through manipulation, tampering the record and fabrication of documents, which constitutes an offence of corruption and corrupt practices as envisaged under Section 9(a) of NAO, 1999 and schedule thereto punishable under Section 10 of the Ordinance.

3. The learned Accountability Court, on taking cognizance of the matter, charged the appellants and other co-accused for the offence of corruption and corrupt practices as defined under Section 9(a)(i)(vi)(xii) of NAO, 1999 read with Schedule attached thereto punishable under Section 10 the Ordinance, who pleaded not guilty and claimed a trial.

4. The prosecution, in support of its case, examined eight witnesses. **Khalil Memon**, who is Micro Filming Officer, Board of Revenue, Sindh, Hyderabad, appeared as PW.1 Ex.14. He handed over the record pertaining to land in question to the investigating officer viz registered sale deed dated 31.12.2004 and village Form VII of Deb Babar Bund. **Kunwar Aezaz M. Khan** {Assistant Superintendent Stamps appeared as PW.2 at Ex.15. He produced certain record including bank challan dated 21.12.2004 amounting to Rs.30,000/-, original entry No.34 dated 21.12.2004 of daily receipt register, entry No.27 dated 21.12.2004, bank scroll sheet showing entry No.46 dated 21.12.2004 to investigating officer and also exhibited the same in his evidence. **Ghulam Mustafa** {Tapedar Tapo Huthal Buth, Taluka Thana Bola Khan appeared as PW.3 Ex.17. He produced mutation entries No.154 and 77 dated 12.01.2005 and 20.10.1990 of Deh Form VII A of Deh Babar Bund Tapo Huthal Buth, Taluka Thana Bola Khan, District Dadu, mutation entry No.154 to investigating officer and also exhibited

the same in his evidence. **Haji Hasan Ali {Revenue Surveyor Zabit Branch, Hyderabad}** appeared as PW.4 Ex.20. He produced revenue record relating to accused Mehmood Rangoonwala and Mst. Sabiha and Abdullah Solangi to investigating officer, who took custody of the same under a seizure memo and obtained his signature on it. **Ramesh Kumar** {Incharge Sub-Registrar Kotri} appeared as PW.5 Ex.21. He provided attested copies of receipt book No.011 dated 31.12.2004 for Rs.11,600/-, receipt book No.014 dated 31.12.2002 for Rs.400/-, cash book register dated 31.12.2004, day book dated 31.12.2004, thump print register to investigating officer and also exhibited the same in his evidence. **Abdul Hameed** {Mukhtiarkar Thana Bola Khan} appeared as PW.6 Ex.23. He provided original complete volume containing 112 pages to investigating officer, who took custody of the same under a seizure memo prepared in his presence, and also exhibited the same in evidence. **Ramesh Kumar** {Land Revenue Expert} appeared as PW.7 Ex.24. He gave his opinion on investigation file sent to him by investigating officer alongwith relevant documents. **Naveed Rehman** {investigating officer} appeared as PW.8 Ex.25. He verified that whole investigation was conducted by him and on completion thereof the reference was filed in Court on the recommendation of the competent authority. All of them have exhibited number of documents in their evidence and subjected to cross-examination by the defence. Thereafter, the prosecution closed its side vide statement Ex.27.

5. The appellants and co-accused were examined under Section 342, Cr.P.C. All of them have denied the allegations imputed upon them by the prosecution, professed their innocence and stated their false implication in this case. Both appellants have further stated that the witnesses examined by the prosecution are government officials and they have falsely deposed against them being interested witnesses. They opted not to examine themselves on Oath under Section 340(2), Cr.P.C. nor adduce any evidence in their defence.

6. The trial culminated in conviction and sentence of the appellants as stated in para-1 {supra}, hence necessitated the filing of

listed appeals, which are being disposed of together through this single judgment.

7. It is contended on behalf of the appellants that they are innocent and have been falsely implicated in this case with malafide intention and ulterior motives as otherwise they have nothing to do with the alleged offence and have been made victim of the circumstances. It is next submitted that before filing of reference no proper exercise was conducted in the light of guidelines highlighted by the Hon'ble Superior Court and the mandatory commands of law and in absence thereof the NAB was not competent to initiate inquiry and file a reference. It is also submitted that the prosecution has failed to produce any iota of evidence against appellants to substantiate their involvement in the commission of offence. None of the witnesses have uttered a single word with regard to issuance of sale certificate or NOC for sale by appellant Asadullah Solangi or that entry No.77 was signed by him. The prosecution has failed to discharge its legal obligation of proving the guilt of the appellants as mandatory requirement of Section 14 of the NAO, 1999, and the appellants were not liable to prove their innocence. The investigating officer has conducted dishonest investigation and involved the appellants in a case with which they have no nexus while releasing the real culprits who were actual beneficiaries of the transaction, hence it is a case of clear discrimination. The case against the appellants lacked *mens rea* or commission of any illegality while endorsing transfer mutation entry No.154 dated 12.01.2005 and in absence thereof no criminal liability could be penned down on them. Per learned counsel such entry was kept on record in due compliance of the registered sale deed in view of the judgment of Hon'ble Supreme Court which dictates that Mukhtiarkar cannot refuse entry of registered sale deed in the revenue record. The prosecution has failed to bring home the charge against the appellants through cogent and reliable evidence. The witnesses examined by the prosecution are government officials and they have falsely deposed against the appellants being interested witnesses and inimical to the appellants as such their evidence is neither trustworthy nor confidence inspiring and the same has wrongly been relied by the learned trial Court. The

witness did not ascribe any direct or indirect role to the appellants with regard to their involvement in the alleged offence. They were inconsistent with each other rather contradicted on crucial points benefit whereof must go to the appellants. The learned trial Court did not appreciate the evidence in line with the applicable law and surrounding circumstances and based its findings on misreading and non-reading of evidence and arrived at a wrong conclusion in convicting the appellants merely on assumptions and presumptions. The learned trial Court totally ignored the plea taken by the appellants in their defence, which was sufficient to prove their innocence. Per learned counsel, all steps taken by the appellants were in accordance with law and they have not done any illegal act, which could saddle penal consequences on them. It was a case of mere procedural illegalities and in absence of any strong evidence on record no conviction could be based for offence under Section 9(a)(vi) of the Ordinance. Thus, the conviction and sentence awarded to the appellants are illegal and liable to be set-aside. Finally, the learned counsel submitted that the appellants did not derive any personal financial gain from the acts for which they were charged, tried and convicted, thus the conclusion drawn merits reversal. Reliance has been placed on the cases of *Mansur-ul-Haque v Government of Pakistan* {PLD 2008 Supreme Court 166}, *The State and others v M. Idrees Ghauri and others* {2008 SCMR 1118}, *Pir Mazharul Haq and others v The State through Chief Ehtesab Commissioner, Islamabad* {PLD 2005 Supreme Court 63}, *M. Anwar Saifullah Khan v The State* {PLD 2002 Lahore 458}, *The State v Anwar Saif Ullah Khan* {PLD 2016 Supreme Court 276}, *M. Siddique-ul-Farooque v The State* {PLD 2002 Karachi 24} and *Masood Alam Niazi and others v The State through Chairman NAB* {2021 P.Cr.L.J. 99}.

8. Strongly opposing the contentions of the learned counsel for the appellants, the Special Prosecutor NAB has contended that the appellants were lawfully proceeded against under the enabling provisions of the Ordinance, which were strictly in accordance with the settled principles of the criminal justice system of providing the appellants with complete opportunity of defending them. The appellants in their official capacity have misused their authority and extended undue favour to other co-accused in respect of a

government land for personal gain and caused a colossal loss to the national exchequer. It is also submitted that the prosecution in support of its case produced oral as well as documentary evidence, which was rightly relied upon by learned trial Court. Per him, the witnesses were subjected to lengthy and taxing cross-examination but nothing favourable to the appellants could come out from their mouth to show their false implication. Finally, submitted that the findings recorded by the learned trial Court in the impugned judgment are based on fair evaluation of evidence and documents brought on record, to which no exception could be taken. He, therefore, prayed for dismissal of appeals as being devoid of any merit. Reliance has been placed on the case of *Malik Din v Chairman National Accountability Bureau and another* {2019 SCMR 372}.

9. We have given our anxious consideration to the submissions of learned counsel for the appellants and the learned Special Prosecutor NAB and gone through the entire material available on record with their able assistance as well as perused the written synopsis separately filed on behalf of the appellants.

10. A keen look at the record reveals that entry No.77 dated 20.10.1890 was inserted in the record of rights in favour of Mst. Sabiha through manipulation by removing original page and inserting another leaf and in consequence whereof NOC/Sale Certificate was issued by Mohammad Moosa, Tapedar {since died} without verifying the area from Land Register, which was attested/confirmed by appellant Asadullah Solangi as Mukhtiarkar. The ocular account furnished by the prosecution has been supported by documentary as well as investigation report, which established the charges leveled against appellant Asadullah Solangi that he has attested/confirmed fake entry bypassing the relevant directions issued from time to time and neglecting the legal and procedural formalities, details whereof are given bellows:-

- {i} There is no policy to dispose of Barani Government Land on permanent tenure;
- {ii} The occupants of Khet numbers do not possess proprietary rights of land;

- {iii} The entry No.77 of VF-VII A of Deb Babar Bund does not bear reference of the previous entry;
- {iv} He did not verify the area of subject Khet numbers from Land Register before issuance of sale certificate.
- {v} The year mentioned against entry No.77 is 1890 whereas record of rights was prepared in the year 1926-27;
- {vi} In column No.5 of VF-VII A the name of deceased {whose so-called land is inherited by Mst. Sabiha is not mentioned;
- {vii} In column 5 of VF-VII A the reference of Book of statements, wherein statements of witnesses were corded and decision of Disputed Register {Takrari Register} are not mentioned;
- {viii} Land Utilization department issued circular dated 16.11.1992 regarding regularization of HAQ QABZA lands and directed that in case of Haq Qabza rights no mutation be made in VF-VII {record of rights} except on the basis of genuine and old documents registered as per rules prior to the year 1947;
- {ix} The land was surveyed in 1986 prior to that Deh Babar Bund was comprised of different area numbered as NA Class No.1; and
- {x} After survey conducted in the year 1985 of all the chaks, survey No.88 and 89 in each chak have different area which does not tally with the area mentioned in sale certificate.

11. The record also reflects that on the basis of sale certificate, Mst. Sabiha appeared before the office of Sub-Registrar, Kotri, duly identified by her brother Javed Akhtar Qureshi, and executed sale deed in favour of Mehmood Rangoonwala, Proprietor of M/s Terry World Textile Mills and based on such deed an entry No.154 dated 12.01.2005 was kept in the record of rights in favour of Mehmood Rangoonwala. The prosecution has brought on record sufficient evidence proving appellant Ali Akbar Parhiar guilty of the charges leveled against him and detailed below:-

- {i} According to the instructions of Village Manual, the Tapedar/ Mukhtiarkar while entering/ confirming the transaction have to compare the new entry with previous entry relating to the

- same land. But without referring the previous entry made a new entry in favour of M/s Terry World;
- {ii} There is no policy to dispose of Barani Government Land on permanent tenure;
 - {iii} The occupants of Khet numbers do not possess proprietary rights of land;
 - {iv} The entry No.77 of VF-VII A of Deb Babar Bund does not bear reference of the previous entry;
 - {v} He did not verify the area of subject Khet numbers from Land Register before issuance of sale certificate.
 - {vi} The year mentioned against entry No.77 is 1890 whereas record of rights was prepared in the year 1926-27;
 - {vii} In column No.5 of VF-VII A the name of deceased {whose so-called land is inherited by Mst. Sabiha is not mentioned;
 - {viii} In column 5 of VF-VII A the reference of Book of statements, wherein statements of witnesses were corded and decision of Disputed Register {Takrari Register} are not mentioned;
 - {ix} Land Utilization department issued circular dated 16.11.1992 regarding regularization of HAQ QABZA lands and directed that in case of Haq Qabza rights no mutation be made in VF-VII {record of rights} except on the basis of genuine and old documents registered as per rules prior to the year 1947;
 - {x} The land was surveyed in 1986 prior to that Deh Babar Bund was comprised of different area numbered as NA Class No.1; and
 - {xi} After survey conducted in the year 1985 of all the chaks, survey No.88 and 89 in each chak have different area which does not tally with the area mentioned in sale certificate.

12. What we understand from the record is that an inquiry was initiated on the basis of certain complaints and press clippings highlighting fraudulent sale of 237 acres of government land in Deh Babar Bund, Taluka Thana Bola Khan, District Jamshoro, followed by an investigation, which led to filing of a reference nominating six accused persons. The accused appearing at serial No.4 to 6 (Mehmood Rangoonwala, Mst. Sabiha and Javed Akhtar

Qureshi) are private persons whereas accused appearing at serial No.1 to 3 (Asadullah Solangi, Ali Akbar Parhiar and Abdul Jabbar Soomro) are shown to be officials of revenue department. It has come in evidence that entry No.77 dated 20.10.1890 was arranged in VF-VII, rewritten in the year 1985, in the name of Mst. Sabiha showing her to be the owner of Survey Nos.288/2 {46-10 acres}, 289/1 {36-30 acres}, 289/2 {45-10 acres}, 289/3 {55-30 acres} and 289/4 {53-0 acres}, total measuring 237-00 acres in Deh Babar Bund, Tapa Hathal Buth, Taluka Thana Bola Khan, District Jamshoro purported to have been inherited land from old occupant/possession holder, which numbers do not exist in the survey record. The record also reflects that Deh Babar Bund was an un-surveyed land comprised of five parts and each part known as chak and each chak contained one survey number. In the year 1985 the Directorate of Settlement Survey and Land Record, Hyderabad surveyed the area and assigned survey number to all five parts of Deh Babar Bund according to which Survey No.288 and 289 in all chaks comprised of an area of around four acres and not as mentioned in the record of rights based on fake entry No.77, the then Tapedar issued sale certificate dated 16.12.2004, which was attested/confirmed by appellant Asadullah Solangi and based on which Mst. Sabiha transferred the land in question in favour of Mehmood Rangoonwala through a registered sale deed before the office of Sub-Registrar, Kotri. The record is also suggestive of the fact that in the year 1985 the entire record of rights was rewritten according to which original entry No.77 was recorded in respect of survey No.289 comprised of 10 acres in favour of Walidad and 16 other persons, but it was changed by removing original page and inserting another leaf in the record of rights in favour of Mst. Sabiha showing her to be owner of 237 acres of government land and subsequent thereto NOC/sale certificate was issued in favour of Mst. Sabiha. Based on the sale deed, Abdul Jabbar Soomro {absconding accused} inserted entry No.154 dated 12.01.2005, which was attested/confirmed by appellant Ali Akbar Parhiar. Worth to mention here that at trial Mst. Sabiha denied to have obtained sale certificate as well as her ownership over the land in question and also execution of registered sale deed in favour of Mehmood Rangoonwala. Javed

Akhtar Qureshi also denied to have visited the office of Sub-Registrar and identified her sister at the time of execution of sale deed while accused Mehmood Rangoonwala also denied the prosecution case and claimed that he purchased the land in question from Mst. Sabiha after completing all codal formalities and paid the entire sale consideration to her, who produced fresh form VII, and also obtained NOC for Sale from the office of revenue department. Surprising to note that at trial the three accused claimed their innocence, but after recording conviction they entered into plea bargain, in terms whereof Mst. Sabiha and Javed Akhtar Qureshi voluntarily paid a total sum of Rs.10,75,000/- each towards illegal gains earned by them including fine of Rs.500,000/- each imposed by this Court vide order dated 31.01.2020 in their respective appeals. We are also conscious of the fact that accused Mehmood Rangoonwala also entered into plea bargain and voluntarily surrendered the entire land to the Government and also paid a sum of Rs.500,000/- towards fine vide order dated 11.12.2019 passed by this Court in Criminal Accountability Appeal No.53 of 2018. This fact, thus, established guilty conscious of three accused, who voluntarily entered into plea bargain admitting their guilt and based on such PB their conviction of five years rigorous imprisonment each was set-aside by this Court, however, the sentences awarded in terms of Section 15 were ordered to be maintained. It will not be out of place to mention here that accused Abdul Jabbar Soomro {Tapedar} after recording of his Section 342, Cr.P.C. statement absconded away perhaps due to possibility of trial ending into his conviction, which too proved his guilty conscious. Insofar as the appellants are concerned, suffice to observe that they being holder of public office and custodian of state assets failed to discharge their duties honestly, diligently in a carefully manner, but they become instrumental and facilitated the corrupt practices by way of negligence and connivance with others, thereby aided and abetted private accused persons in usurping the government land and causing a colossal loss to the national exchequer. Appellant Asadullah Solangi in his capacity as Mukhtiarkar T.B. Khan attested/confirmed fake sale certificate on the basis of fake entry No.77 in favour of Mst. Sabiha, who got the land transferred in the name of Mehmood

Rangoonwala through a registered sale deed No.1014 dated 31.12.2004 before the office of Sub-Registrar, Kotri, and on the basis of such registered deed Abdul Jabbar Soomro {Tapedar} inserted entry No.154 dated 12.01.2005 in the record of rights, which was attested and confirmed by appellant Ali Akbar Parhiar. At this juncture, we are of the considered view that all the accused persons, nominated in the reference, in connivance with each other committed an offence of corruption and corrupt practices and misuse of authority and sold out 237 acres of government land through fake entries in record of rights, manipulating and removing the original record and managing fake and fabricated documents and the acquisitions against them stand proved.

13. As to the contention that NAB was not competent to file a reference against the appellants without completing proper exercise in the light of the guidelines highlighted by the Hon'ble Superior Court before initiation of inquiry and filing of a reference, suffice to observe that Sub-Section (b) of Section 18 of the Ordinance deals with the initiation of a reference by NAB, which reads as under:-

"Cognizance of Offences:-

{b} A reference under this Ordinance shall be initiated by the National Accountability Bureau on

{i} a reference received from the appropriate Government; or

{ii} receipt of a complaint; or

{iii} its own accord."

14. The above provision clearly provides three different modes to initiate a reference against an accused. Clause (ii) (supra) is so worded to encompass a complaint filed by any person accusing any person of committing corruption to be the basis for NAB to initiate a reference under the Ordinance. We have gone through the reference which specifically disclosed that inquiry into the matter was initiated on the basis of certain complaints and press clippings highlighting fraudulent sale of 237 acres of government land in Deh Babar Bund, Taluka Thana Bola Khan, District Jamshoro and pursuant to such inquiry the investigation was followed and it was found that appellant Asadullah Solangi in his capacity as

Mukhtiarkar of Thana Bola Khan attested/confirmed sale certificate, issued on the basis of fake entry No.77 which was kept by removing original page and inserting another leaf in the record of rights, in favour of co-accused Mst. Sabiha in respect of 237 acres of government land despite having knowledge that she was not the owner of the said land while appellant Ali Akbar Parhiar in his capacity as Mukhtiarkar Thana Bola Khan confirmed entry No.154, which was made on the basis of fake sale deed executed by co-accused Mst. Sabiha in favour of co-accused Mehmood Rangoonwala, knowingly and purposely, without comparing with the previous one having knowledge that the land belong to government. It is, thus, made clear that the offence falls within the purview of a complaint as provided under clause {ii} of Sub-section (b) of Section 18 of the Ordinance. Hence, the stance taken by the learned counsel for the appellants challenging the competency of NAB for filing of a reference is misconceived.

15. The next contention that the prosecution has not been able to discharge its duty of proving the guilt of the appellants and shifting onus on the appellants as mandatory requirement of Section 14 of NAO, 1999 is concerned, we are suggestive of the fact that the prosecution examined as many as eight witnesses, who were subjected to lengthy cross-examination but nothing favourable to the appellants could come out from their mouth. They were consistent on each and every aspect of the matter and did not contradict each other on material points. Nothing has been brought on record on behalf of the appellants that the prosecution witnesses had some grudge against them for their false implication in the commission of offence. We have noticed that in rebuttal to overwhelming prosecution evidence, the appellants have failed to produce any tangible material to rebut the trustworthy and confidence inspiring evidence of the prosecution witnesses. All the witnesses have supported the case of the prosecution and implicated the appellants in the commission of offence. The ocular account furnished by the prosecution has also been supported by the documentary evidence. PW.1 Khalil Memon, who is Microfilming Officer, Board of Revenue, Hyderabad while recording his evidence has produced sale deed and sale certificate alleged to have been attested/confirmed by appellant

Asadullah Solangi. PW.3 Ghulam Mustafa, Tapedar Tapo Hathal Buth, Thana Bola Khan has given the details of record of rights containing entries No.77 and 154 in the names of co-accused Mst. Sabiha and M/s Terry World Textile and exhibited the same in his evidence. PW.4 Tahir Ali, Surveyor of Revenue Department, Government of Sindh has produced complete land registers of Chak No.2, 3, 4 and 5 Deh Babar Bund, Thana Bola Khan comprising record of land in respect of Survey No.288 and 289. PW.5 Ramesh Kumar, Peshkar of Sub-Registrar, Tando Wali Muhammad Hyderabad has given the details of registration receipt book in respect of receipts No.011 dated 31.12.2004, 014 dated 31.12.2004, cash book register , day book register, thumb print register and exhibited the same in his evidence. PW.6 Abdul Hameed, Mukhtiarkar Sehwan has produced complete register of Deh Form VII of Deb Babar Bund, Thana Bola Khan and Form VII-B. PW.7 Ramesh Kumar, Land Revenue Expert has produced Sindh Village Accounts Manual and report of Inspection Team. He has highlighted the legal requirement for grant or transfer of land of different categories in accordance with the Colonization of Government Lands Act, 1912. PW.8 Naveed Rahim is the investigating officer, who has highlighted the investigation being carried out by him and affirmed the documents exhibited by the witnesses.

16. The learned counsel for the appellants has also claimed that the action of NAB against the appellants was discriminatory as it had only singled out the appellants as official accused in the reference. This contention on the face of it seems to be legally incorrect. It is a well settled principle of criminal jurisprudence that challenging prosecution on the ground of discrimination cannot be a complete valid defence to absolve an accused from criminal liability arising from his actions or inactions. Any person charged for an offence is answerable for his own acts or omissions and has to defend himself in a trial for the offence with which he has been charged. In the case in hand, the appellants have failed to prove their innocence through cogent and reliable evidence.

17. As to the plea that the witnesses were government officials and they being interested and inimical to the appellants have deposed

against them favouring the prosecution is not borne out from the record. They being independent and official witnesses have specifically involved the appellants in the commission of offence charged with. The appellants have failed to establish any animosity or ill-will against the witnesses, who have deposed against them and mere saying that they have falsely been implicated in this case is not sufficient to prove their innocence particularly in view of the fact that the prosecution witnesses were consistent and their evidence could not be shattered in cross-examination. Even otherwise, they have neither produced any witness nor any other material to substantiate their defence. They have also not appeared on Oath under Section 340{2}, Cr.P.C. and failed to speak a single word as to why the witnesses have deposed against them, which will give rise to a presumption that the plea taken by them in their defence was not a gospel truth, therefore, they avoided to appear and depose on Oath under Section 340{2}, Cr.P.C. Even otherwise, if both the versions, one put forward by the appellants and the other put forward by the prosecution, are considered in a juxtaposition, then the version of the prosecution seems to be more plausible and convincing and near to truth while the version of the appellants seems to be doubtful. It is noteworthy that during trial appellants neither denied issuance of NOC and sale certificate nor disputed transfer mutation entry in the record of rights. The only defence that has been taken is that all transaction was either result of acts and deeds of others or consequential to the registered sale deed. Though it has not been established that entry No.77 was recorded by appellant Asadullah Solangi, but it was his duty to check the record while attesting NOC for sale. A keen look of the record reveals that NOC and sale certificate were issued without due verification of entry No.77, which was a fake one in view of the admission of co-accused Mst. Sabiha that neither she was the owner of the land nor aware of said entry in the record of rights. As to entry No.154 is concerned, suffice to observe that appellant Ali Akbar Parhiar neither denied recording of such entry nor disputed its attestation by him. The only plea that this entry was made in view of the verdict of Hon'ble Supreme Court under the garb of sale deed is not helpful to the appellant. The learned trial Court has rightly appreciated the evidence brought on record by the prosecution and recorded

conviction acting upon the material available with the learned trial Court by holding that the prosecution has succeeded to establish its case against the appellants. We are also conscious of the fact that law requires that if accused had a defence plea the same should be put to the witnesses in cross-examination and then put forward the same while recording statement under Section 342, Cr.P.C. which is lacking in the instant case. In the circumstances, since no specific plea has been taken by the appellants in their Section 342, Cr.P.C. statements, the learned trial Court has rightly discarded the same to be not of confidence inspiring.

18. As to the last contention that the appellants have not drawn any personal gain or caused any financial loss to the national exchequer is concerned, we have minutely assessed the entire record, which reflects that the appellants in their official capacity have failed to discharge their duties in accordance with the minimum required standards to protect the assets of the Government which is a sacred trust under their command and control, but they failed to do so, which amounts to corruption and corrupt practices. Even otherwise the offence of corruption or corrupt practices as provided in clause (vi) of subsection (a) of section 9 of the Ordinance includes even an attempt to misuse authority so as to gain any benefit to any other person and it need not necessarily result in any personal gain to the accused. The said provision reads as under:-

"9. Corruption and Corrupt Practices:---"*(a)(vi) [If he] misuses his authority so as to gain any benefit or favour for himself or any other person, or renders or attempt to render to do so, for willfully fails to exercise his authority to prevent grant, or rendition of any undue benefit or favour which he could have prevented by exercising his authority]*".

19. The learned trial Court after scrutinizing the material available on record convicted the appellants on the ground that they being the holder of public office misused their official authority and fraudulently caused huge loss to the national exchequer, knowingly and purposely, having knowledge that the land belongs to the

government. It is noteworthy that the Courts in the past have extended lenient treatment to the accused involved in like cases but now when corruption is cutting the very root of the economy of the country at a large scale in a very organized manner and it has become free for all then it has become the primary and foremost obligation of the Court to arrest this evil monster which would ultimately be a threat not to latter alone but to the very survival of the State. Due to massive corruption the poor among poorer are not getting the basic facilities to live a peaceful and Hon'ble life as envisaged by the provisions of the Constitution. Majority of the children could not go to school as their parents cannot afford the education expenses, same is the problem in the health care sector for the poor and other departments. This homeland was not gifted to us but millions of lives were sacrificed in achieving independence for a better and Hon'ble life style and to become a welfare state where every citizen whether belongs to majority or minority would be entitled to equal rights as laid down in Part 1 of Chapter 1 of the Constitution of Pakistan, 1973. However the nation is still dreaming this dream which is yet to be given practical shape. If massive corruption is allowed to go unchecked, we would, remain unable to drop from our hands the begging bowls. In view of the globalization of the world, the independence of a country/State is mainly dependent on sound economy therefore, in the larger interest of the State and the nation, the Courts have to apply strict standards and to show a zero tolerance for corruption and people involved in such type of crimes whose guilt is well established should get the maximum and no mercy to be shown to them. As to the case law cited by the learned counsel for the appellants, in support of his submissions, in our humble view, the facts and circumstances of the said cases are distinct and different from the present case, therefore, none of the precedents cited by the learned counsel are helpful to the appellants.

20. From the combined study of material available on record, we are of the humble view that the prosecution has successfully proved its case against the appellants beyond shadow of any doubt. Learned counsel for the appellants has failed to point out any material illegality or serious infirmity committed by the learned trial Court while passing the impugned judgment, which in our

humble view is based on fair evaluation of evidence and documents brought on record, hence calls for no interference by this Court. In view thereof, the conviction and sentence awarded to the appellants through impugned judgment dated 29.09.2018 warrants no interference. Consequently, these appeals are dismissed as being devoid of any merit.

JUDGE

JUDGE

NAK/PA