

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
 Cr. Acq. Appeal No.94 of 2014

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 Date                                      Order with Signature(s) of Judge(s)  
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For hearing of main case.

**Mr. Ameer Azam, Advocate for the Appellant.**  
**Mr. Zahoor Shah, APG.**

**ORDER**  
**13.06.2017**

**MOHAMMAD KARIM KHAN AGHA, J:-** This is an appeal against acquittal. Heard learned counsel for the appellant and learned Addl., P.G. Learned counsel for the appellant has contended that judgment dated 16.03.2015 passed by Vth Judicial Magistrate Karachi East whereby the respondent was acquitted for offence under section 420/427 PPC (the impugned judgment) by extending the benefit of doubt is not in accordance with law mainly on account of misreading and non-reading of evidence. On the other hand learned Addl. P.G. has contended that <sup>wy</sup> the impugned judgment is passed in accordance with law. The operative part of the impugned judgment reads as under:-

“It is very essential to mention here that the background of lodging FIR is civil nature dispute between the parties and the FIR was lodged after inordinate delay and deliberations which fact remained unexplained and renders the prosecution case as doubtful.

It is pertinent to mention here that to sustain a conviction u/s. 420 PPC it must be established beyond reasonable doubt that the accused practiced deception and thereby dishonestly induced the person so deceived to deliver property. Subsequent denial of a transaction or refusal to return the money does not show that there was the necessary criminal intent from the beginning. Hence, the general proposition of law is well settled that a broken promise by itself does not bring the case within the mischief of cheating.

The upshot of above discussion is that evidence of PWs is inconsistent and contradictory to each other, cast clouds of doubts on prosecution case. It is a cardinal principle of criminal jurisprudence that burden to prove an offence always lies on the prosecution and benefit of any doubt arising would always go to the accused. The evidence recorded so far is not sufficient to convict the accused person.

Having considered the evidence on record and the impugned judgment I am of the view that learned counsel for the appellant has not been able to point out any illegality, infirmity or irregularity in the impugned judgment especially bearing in mind the very narrow scope of appeal against conviction as discussed by the Hon'ble Supreme Court of Pakistan in the case of The State v. Abdul Khaliq and others (PLD 2011 Supreme Court 554). Therefore I am of the considered view that the impugned judgment is based on sound reasons and does not require interference by this Court, especially as noted in the impugned judgment the benefit of the doubt must always go to the accused in a criminal case. As such appeal against conviction has no merit and is hereby dismissed.