

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Appeal No. 227 of 2018

Appellant : Ahsanullah Jat son of Abdul Wahid Jat,
Through Mr. Muhammad Rehman Ghous,
Advocate.

Respondent : The State
Through Mr. Tahir Hussain Mangi, DPG

Date of hearing : 22.04.2025

Date of judgment : 15.05.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J. – Appellant Ahsanullah Jat was convicted for offence under Section 471 PPC punishable in terms of Section 465 PPC and sentenced to undergo rigorous imprisonment for two years, to pay a fine of Rs.10,000/-, and in default of payment thereof, to further undergo simple imprisonment for six months by the learned Special Judge, Anti-Corruption (Provincial), Karachi, vide judgment dated 03.04.2018, in Special Case No. 02 of 2018, titled The State v. Ahsanullah Jat. The proceedings arise out of FIR No. 55/2000 registered at Police Station Anti-Corruption Establishment, Karachi, for offences punishable under Sections 420, 468, 471, and 471-A PPC, read with Section 5(2) of the Prevention of Corruption Act, 1947.

2. The prosecution case, in essence, is that the appellant, while seeking appointment as Assistant Sub-Inspector (ASI) in the Sindh Reserve Police, submitted a forged Intermediate Certificate purportedly issued by the Board of Intermediate and Secondary Education, Hyderabad. The said document, upon verification, was declared fictitious, and it was alleged that the appellant had knowingly used the same as genuine to fraudulently secure public employment, thereby attracting penal liability under Sections 471 and 468 PPC read with Section 5(2) of the Prevention of Corruption Act, 1947.

3. The matter initially came to light pursuant to Complaint No. 14 of 2000 lodged by SIP Altaf Hussain, which triggered a formal departmental inquiry. Upon confirmation of the forgery through internal verification processes, a criminal investigation was initiated, culminating in the registration of the aforesaid FIR, submission of the final challan, and commencement of trial before the Special Court.

4. It is pertinent to mention that the appellant had earlier preferred Criminal Appeal No. 50 of 2018 before this Court, which was allowed on the limited ground of non-compliance with the mandatory provisions of Section 342 Cr.P.C., as the appellant's statement had not been properly recorded in accordance with law. Consequently, the case was remanded for re-trial with specific directions. In compliance therewith, the learned trial Court re-recorded the appellant's statement under Section 342 Cr.P.C., afforded him an opportunity to depose on oath in pursuance of Section 340(2) Cr.P.C., and upon reappraisal of the entire evidence on record, reaffirmed its previous findings, thereby convicting the appellant in the same terms.

5. Learned counsel for the appellant, while impugning the legality and propriety of the impugned judgment, advanced a series of submissions challenging the sustainability of the conviction. It was, inter alia, contended that the prosecution failed to discharge its burden of proving that the educational certificate in question was forged or fictitious. Counsel argued that the said certificate, at best, could be categorized as provisional in nature, and that the requisite *mens rea*, i.e., the element of criminal intent, was neither alleged with specificity nor established through cogent evidence. It was further asserted that the prosecution did not examine any official from the Board of Intermediate and Secondary Education, Hyderabad, to substantiate the claim of fabrication or to authenticate the alleged falsity of the document in question. In support of the appellant's bona fides, reliance was placed on subsequent academic credentials obtained by the appellant, including B.A. and M.A. degrees, which were purportedly secured on the strength of the same technical qualification, thereby undermining the prosecution's claim of fraud and establishing continuity in the appellant's academic trajectory.

6. Another substantial grievance raised was that the findings of the learned trial Court were premised predominantly upon photocopied documents, specifically, Exhibits 6/2 and 6/3 (the purported forged Intermediate Certificate and its accompanying mark sheet) and Exhibit 7/3 (the verification report), none of which were originals or duly proved in accordance with the evidentiary standards prescribed under the Qanun-e-Shahadat Order, 1984. Learned counsel emphasized that the author of Exhibit 7/3 was not produced as a witness, and as such, the verification report constitutes inadmissible hearsay evidence. It was submitted that in the absence of primary evidence or legally admissible secondary

evidence, the findings recorded by the learned trial Court stood vitiated for want of evidentiary reliability and procedural regularity.

7. Conversely, the learned Deputy Prosecutor General for the State vehemently supported the impugned judgment and contended that the prosecution had successfully discharged the burden of proof by adducing credible oral testimony and cogent documentary evidence, which collectively established the guilt of the appellant beyond reasonable doubt. It was argued that the appellant had knowingly and dishonestly submitted a forged Intermediate Certificate with the intention of unlawfully securing appointment as Assistant Sub-Inspector in the Sindh Reserve Police, thereby committing a serious offence involving moral turpitude and breach of public trust. The learned Law Officer further submitted that the verification report categorically declared the certificate to be fictitious, and that the defense failed to rebut the presumption arising from the use of a forged public document within the meaning of Sections 471 and 468 PPC. Additionally, it was asserted that even in the absence of the author of the verification report, the cumulative effect of the uncontroverted evidence and the appellant's failure to produce the original certificate or any corroborative evidence regarding its authenticity lent sufficient strength to the prosecution's case. The learned Deputy Prosecutor General also argued that the subsequent acquisition of academic qualifications by the appellant, allegedly based on the same forged certificate, does not exonerate him but rather aggravates the offence by demonstrating continued reliance on fraudulent credentials. Moreover, it was urged that the learned trial Court meticulously appraised the evidence in accordance with settled principles of criminal jurisprudence, and the findings recorded therein are the result of a fair trial conducted in accordance with law. Hence, the conviction awarded to the appellant is not only well-founded but also immune from interference by this appellate Court.

8. Heard learned counsel for the appellant as well as the learned Deputy Prosecutor General for the State. When a private individual secures public employment by fraudulently submitting forged educational credentials, and such forgery is subsequently verified during service, the legal consequences under law are multifaceted. Such acts attract penal provisions under the Pakistan Penal Code (Sections 465, 468, and 471) for forgery and use of forged documents, and more significantly, constitutes "criminal misconduct" under Section 5(2) of the Prevention of Corruption Act, 1947. Despite the accused being a private individual at the time of committing the initial fraud, the moment he enters public service

and derives pecuniary benefit or authority on the basis of forged credentials, he transitions into a public servant, thereby bringing his conduct within the jurisdiction of anti-corruption laws. Furthermore, the continuous retention of public office on the basis of deception transforms the act into a continuing offence, enhancing the culpability and extending the scope of liability. The fraudulent act undermines the integrity of public institutions and constitutes a betrayal of public trust, a core element of corruption jurisprudence. Hence, not only is prosecution under forgery provisions warranted, but a parallel charge of criminal misconduct would also be legally sustainable. The appropriate forum for trial is the Special Court of Anti-Corruption, as constituted under the relevant provincial anti-corruption statutes, since the offence involves abuse of public position, even if fraudulently obtained. The jurisdiction of ordinary criminal courts is ousted in such cases, as specialized anti-corruption forums are empowered to adjudicate matters where the subject matter pertains to entry into or abuse of public service through corrupt means.

9. The record has been thoroughly examined, including the entirety of the oral and documentary evidence adduced by both the prosecution and the defense. Upon meticulous appraisal of the evidentiary corpus, it emerges that the prosecution examined several material witnesses, notably clerical officials from the Central Police Office (CPO), who produced and duly identified the service record pertaining to the appellant. Among the documents produced was the original application for appointment as Assistant Sub-Inspector (ASI), dated 01.02.1986, exhibited as Ex. 6/A, which explicitly recorded “Intermediate” as the educational qualification possessed by the appellant at the time of seeking public employment. This application, bearing the appellant’s undisputed signature, stands as a crucial admission against interest and provides affirmative linkage between the alleged forged document and its use by the appellant for pecuniary and professional gain.

10. The entry of “Intermediate” was neither struck out nor disclaimed at any subsequent stage, thereby reinforcing the inference that the appellant knowingly and willfully submitted the forged qualification in order to meet the eligibility criteria for the said post. Furthermore, the absence of any attempt by the appellant to produce the original certificate in court, or to summon any official from the relevant educational board to validate its authenticity, militates against his plea of innocence. It is settled law that in criminal proceedings involving documentary fraud, the conduct of the accused, surrounding circumstances, and the inherent consistency of the

prosecution's case play a determinative role. The prosecution's reliance on official records maintained in the ordinary course of business, which carry a presumption of correctness under Article 129(e) of the Qanun-e-Shahadat Order, 1984, further bolsters the prosecution's case. Thus, the appellant's conscious and sustained use of a forged educational qualification to enter and remain in public service is well substantiated from the record and warrants no interference with the findings of the learned trial Court.

11. The cornerstone of the defense, namely that the appellant relied on a technical diploma allegedly equivalent to an Intermediate qualification, collapses when examined in light of the chronological sequence of events. The said Technical Education Certificate, upon which reliance was belatedly placed, was issued in January 1988, substantially subsequent to the date of the employment application, which was submitted on 01.02.1986. This temporal disconnect renders the defense plea inherently untenable. While the maxim *falsus in uno, falsus in omnibus* (false in one thing, false in everything) does not hold binding authority in the Pakistani criminal justice system, its persuasive application is illustrative in the present context, as the material inconsistency in the defense narrative substantially impairs its credibility. The invocation of a non-existent qualification at the relevant time constitutes a deliberate attempt to mislead and evince dishonest intent.

12. The verification report (Exhibit 7/3), though objected to by the appellant; remained un-rebutted on record. Once the prosecution successfully discharged the initial burden of establishing a prima facie case, by producing documentary evidence reflecting that the educational certificate relied upon was fictitious, the evidentiary burden shifted onto the appellant under the principle of *Ei incumbit probatio qui dicit, non qui negat* (the burden of proof lies upon him who asserts, not upon him who denies). The appellant was under a corresponding obligation to dislodge the prosecution's case through credible rebuttal evidence. However, he neither produced the original certificate nor led any affirmative proof to establish its authenticity. On the contrary, his statement on oath contained implicit admissions and evasive explanations, further corroborating the prosecution's version.

13. The argument that the original forged certificate was not produced in evidence is devoid of legal and factual weight. It is a well-recognized administrative norm that recruiting agencies, at the time of appointment,

retain only attested photocopies of educational documents, while originals remain with the candidates. Moreover, the genuineness of the contents was established through official correspondence with the concerned Board of Intermediate and Secondary Education, and no contemporaneous objection or rebuttal evidence was furnished by the appellant to question the veracity or admissibility of the verification report. In this regard, the equitable maxim *lex non cogit ad impossibilia*, the law does not compel the performance of an impossibility, is aptly attracted. The prosecution cannot be faulted for not producing the original document where it is no longer available due to lapse of time and ordinary administrative processes, particularly when secondary evidence and corroborative institutional verification suffice under the Qanun-e-Shahadat Order, 1984.

14. The appellant's further contention that the prosecution failed to examine the Controller of Examinations is equally misconceived. The law does not necessitate the examination of every officer associated with a document's origin. What is legally required is that the document be duly proved through a person competent to produce it and testify regarding its custody or authenticity. In the present case, the prosecution examined relevant clerical officials who maintained the records and were duly authorized to speak to the verification process. Their testimony satisfies the evidentiary threshold required under criminal jurisprudence and evidentiary law, particularly in the context of public documents and routine verification procedures.

15. The appellant's allegation of mala fide implication arising out of alleged animosity between his brother and the complainant is an unsubstantiated afterthought. No contemporaneous protest was recorded by the appellant before any competent departmental forum, nor was any formal complaint lodged with superior authorities or legal *fora* to substantiate the plea of enmity. The failure to take any remedial or preventive step at the relevant time casts serious doubt on the veracity of the plea and renders it unworthy of credence. In criminal law, bald allegations unsupported by independent corroboration or timely action carry negligible probative value.

16. It is a trite principle of law that public employment secured through fraud or misrepresentation stands vitiated *ab initio*. Fraud nullifies even the most solemn of transactions. The maxim *fraus et jus nunquam cohabitant*, fraud and law never dwell together, is of particular relevance to the present case. Courts are duty-bound to ensure that fraud is neither

condoned nor rewarded under the garb of misplaced leniency. The conviction of the appellant is based on consistent, coherent, and legally admissible evidence, and the learned trial Court has correctly appreciated the material facts and applied the settled principles of law in arriving at its conclusion. The offence committed strikes at the heart of meritocracy and institutional integrity, and no mitigating circumstance exists to warrant judicial clemency. While the delay in prosecution is indeed regrettable, it does not by itself obliterate the weight of substantive evidence or operate as a ground for acquittal; particularly where the guilt is established beyond reasonable doubt and the delay is not attributable to prosecutorial misconduct. The conviction is, therefore, well-founded and calls for no interference in appellate jurisdiction.

17. In view of the foregoing analysis and findings, this Court is of the considered opinion that the present appeal is devoid of merit and does not warrant interference in the well-reasoned judgment of the learned trial Court. Consequently, the impugned judgment dated 03.04.2018 is hereby maintained in its entirety, and instant appeal stands dismissed.

18. At the time of pronouncement of the present judgment, the appellant, Ahsanullah Jat son of Abdul Wahid Jat, remained absent without any prior intimation or justification. Accordingly, perpetual Non-Bailable Warrants of Arrest are hereby directed to be issued against the appellant for securing his custody. Simultaneously, notice be issued to the surety for the purpose of effecting service of the conviction and sentence already imposed by the learned trial Court. Furthermore, a certified copy of this judgment shall be transmitted to the learned trial Court via facsimile for its information and for necessary action in accordance with law.

J U D G E