# THE HIGH COURT OF SINDH AT KARACHI

**Criminal Appeal No.601 of 2021**

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| Appellant | : | Muhammad Anwar son of Abdul Razzaq through Mr. Shahab Sarki, Advocate along with M/s. Zulfiqar Ali Langah and Abdul Rashid Rajar, Advocates |

**Criminal Appeal No.619 of 2021**

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| Appellant | : | Kamran Attaullah son of Attaullah Chaudhry through Mr. Shaukat Hayat, Advocate along with Mr. Ghulam Farooq, Advocate |
| Complainant | : | Sheikh Muhammad Munawar through Mr. Mehmood A. Qureshi, Advocate |
| Respondent | : | The State, through Mr. Muhammad Ahmed, Assistant Attorney General, Pakistan |
| Date of Hearing | : | 04.10.2025 |
| Date of Decision | : | 28.10.2025 |

## J U D G M E N T

**Jan Ali Junejo, J.-** Through these two separate Criminal Appeals, the appellants namely Muhammad Anwar, then Assistant Director, and Kamran Attaullah, then Deputy Director, of the Federal Investigation Agency (FIA), Corporate Crime Circle (CCC), Karachi, have challenged Judgment dated 29.10.2021 (**the "Impugned Judgment"**) passed by the Learned Special Judge (Central-I), Karachi, in Case No. 02/2019. The case against them emanated from FIR No. 01/2019 registered at Police Station FIA Anti-Corruption Circle (ACC), Karachi, under Sections 409, 420, 468, 471, 109 of the Pakistan Penal Code, 1860 read with Section 5(2) of the Prevention of Corruption Act (PCA-II), 1947. The allegations centred on the demand and receipt of illegal gratification amounting to approximately Rs. 24 Million from a complainant in a separate case being investigated by the appellants. Vide the Impugned Judgment, the Learned Trial Court convicted both appellants. They were each sentenced to undergo Rigorous Imprisonment for one year under Section 161 PPC and two years under Section 5(2) of the PCA-II, 1947, along with

substantial fine, extending them benefit of Section 382-B, Cr.P.C. Both sentences were ordered to run concurrently. Being aggrieved by this decision, the appellants have approached this Court seeking acquittal. Since both appeals arise from the same set of facts, evidence, and the singular Impugned Judgment, they were heard together and are disposed of by this single consolidated judgment for the sake of clarity, consistency, and judicial economy.

2. Brief facts of the case as originated from F.I.R. No. 01/2019 registered at Police Station FIA Anti-Corruption Circle, Karachi, are that during March to August 2016 Muhammad Anwar, then Assistant Director FIA CCC Karachi (I.O. of Crime No. 04/2016), and Kamran Attaullah, then Deputy Director FIA CCC Karachi, allegedly in connivance with an absconding front man, Abdul Qadir Memon, demanded and received illegal gratification totaling about Rs. 24 million from the complainant, Sheikh Muhammad Munawar (Director of M/s Azhar Corporation Pvt. Ltd.), purportedly to show favour to him in Crime No. 04/2016, including letting off three directors of his company; the F.I.R. further refers to supporting circumstances such as a claimed cash payment of Rs. 10 million to Muhammad Anwar at Lasania Restaurant, Karachi, and entries reflecting payments to both officials found in ledgers/computer data recovered during enquiry.

3. After registration of FIR No. 01/2019, the case was investigated and an interim challan under Section 173 Cr.P.C. was submitted, later treated as final; a subsequent final challan was also filed. Copies of case papers were supplied to the accused under Section 265-C Cr.P.C. against receipt. A formal charge was framed against both appellants under Sections 161/165/109 PPC read with Section 5(2) PCA-II, 1947, to which they pleaded not guilty and claimed trial; their pleas were recorded.

4. In order to substantiate its version, the prosecution examined nine witnesses as under:

> **PW-1: Ali Murad (Assistant Director FIA) at Ex-03:** PW-1 Ali Murad, the Enquiry Officer, deposed that upon receipt of official correspondence dated 19.03.2018 and related letters (Ex.3/A to Ex.3/E), he initiated Enquiry No.27/2018 against the accused officers. He produced the fact-finding report by Dr. Mazhar-ul-Haq Kakakhail with covering letter dated 21.02.2018 (Ex.3/F), the complaint of deceased complainant Munawar Shaikh (Ex.3/G), letters regarding seizure and transfer of two CPUs (Ex.3/I), and the complainant's letter dated 14.05.2018 submitting a USB and cellphone containing alleged voice recordings (Ex.3/J). He prepared the memo of seizure (Ex.3/K), applied for voice recording through District Judge (Ex.3/N), received the certificate of voice process (Ex.3/L), and forensic reports (Ex.3/P). He also produced the letter of permission to register FIR (Ex.3/R) and the FIR itself (Ex.3/S). In cross-examination, he conceded that the ledgers were prepared in 2017, the complaint had no annexures, the CDRs were from

2017–2018. He further deposed that he has recommended his enquiry report that the case is based on weak evidence.

**PW-2: Shujat Ali (Businessman/Friend of Complainant):** PW-2 Shujat Ali, a friend of the deceased complainant, stated that on 15.07.2016, he witnessed the complainant hand over Rs.10 million in Rs.5,000 notes to accused Dr. Muhammad Anwar at Lasania Restaurant, Karachi, after showing WhatsApp messages confirming relief for company directors. He also stated that the accused counted the cash and was dropped home afterward. He identified the memo of seizure of his mobile phone (Ex.3/K), which allegedly contained recordings between himself and absconding accused Abdul Qadir, later sent for forensic analysis. During cross-examination, he admitted that his statement under Section 161 Cr.P.C. omitted material facts such as date, denomination, WhatsApp messages, and that much of his evidence was based on hearsay. His long-standing friendship with the complainant and major improvements in testimony cast doubt on his credibility.

**PW-3: Muhammad Tariq (Employee of Absconding Accused Abdul Qadir):** PW-3 Muhammad Tariq testified that around April 2016, he was directed by his employer Abdul Qadir to deliver an envelope allegedly containing Rs.5 million to accused Kamran Attaullah's office. He claimed to have placed it on Kamran's table and left without verifying its contents. No documentary proof, visitor entry, or corroboration was produced, and he failed to identify Kamran in Court. The Investigating Officer also did not record the statement of Faisal Moosa, who allegedly gave him the money. His evidence lacked specificity regarding date, bank, or denomination, rendering it unsubstantiated and unreliable.

**PW-4: Rehmatullah Ex-Assistant Direction, FIA (Raid Officer):** PW-4 stated that on the directions of superior officers, he, along with FIA personnel and mashirs, conducted a raid at the office of Abdul Qadir Memon and seized two CPUs, preparing a mashirnama of seizure (Ex.5/A). However, he admitted that no written authorization or arrival/departure entries were made, no notice was served to the owner, and his statement under Section 161 Cr.P.C. was not recorded. The irregularities and absence of procedural compliance seriously undermined the legality and evidentiary value of the seizure.

**PW-5: M. Shahrukh Shahnawaz (Ex-Judicial Magistrate):** PW-5 Shahrukh Shahnawaz, then Judicial Magistrate, stated that on 17.07.2018 he was deputed to supervise the voice recording of PW-2 Shujat Ali at Radio Pakistan, Karachi. He produced the order of the District & Sessions Judge (Ex.3/N), his certificate dated 17.07.2018 (Ex.3/L), and forwarding letter (Ex.3/M). He confirmed receiving two CDs and one USB containing the specimen voice, sealed and handed over to the enquiry officer. In cross-examination, he admitted he only supervised the recording process, not voice matching, and his certificate does not mention any verification of questioned voices. Thus, his evidence established only procedural supervision, not any forensic linkage.

**PW-6: Dr. Mazhar-ul-Haq Kakakhail (Director FIA CTW, Islamabad):** PW-6 Dr. Mazhar Kakakhail, then Director CTW, deposed that he conducted the fact-finding enquiry (Ex.3/F) on the complaint of Munawar Shaikh against FIA officials, recording statements and forwarding his report to the Director General FIA. He produced related correspondence (Ex.3/C). In cross-examination, he admitted that CDRs were not part of his report, analysts were not examined, and he did not verify key entries in ledgers or travel records of Abdul Qadir. His report itself did not attribute conclusive criminality, only recommending further determination by competent authority.

**PW-7: Minhaj-ul-Hassan (Investigating Officer):** PW-7 Minhaj-ul-Hassan, Inspector FIA, deposed that he took over investigation in March 2019 and made efforts to arrest the accused. He produced letters sent to relevant agencies for travel history (Ex.9/A–F) and daily diary entries of his movements (Ex.9/G/1–5). He could not arrest the accused and admitted that final liability on accused was

not determined by him. His evidence was mostly formal and did not advance the prosecution case.

**PW-8: Mehmood-ul-Hassan (Deputy Director Forensic, FIA HQ Islamabad):** PW-8 Mehmood-ul-Hassan, Deputy Director (Forensic) FIA Islamabad, deposed that two hard disks were received for forensic analysis from FIA CTW Islamabad to trace data related to accused Muhammad Anwar and Kamran Attaullah. His forensic report, annexed as Annexure "Q" to Ex.3/F, revealed computer entries. In cross-examination, he admitted the data was last modified in May 2017 and that when one accused's data was searched, only his name appeared. His exhibits were the forensic report (Annexure Q of Ex.3/F) and the accompanying correspondence.

**PW-9: Inspector Khalid Naseem Khan (Investigating Officer, FIA ACC Karachi):** PW-9 Inspector Khalid Naseem Khan was examined at Ex.12. He deposed that he took over further investigation from Inspector Minhaj-ul-Hassan after his transfer. He reviewed the entire record, including enquiry and forensic reports, and produced the Zonal Board decision letter dated 22.04.2020 (Ex.12/A). He confirmed that both accused had joined the investigation after obtaining bail and that no fresh evidence was discovered; the investigation was concluded on the material already collected. His testimony was formal in nature, corroborating procedural aspects and confirming that the charge sheet was finalized on the existing evidence.

5. The learned Prosecutor closed the prosecution side at Ex.13. Statements of both appellants under Section 342 Cr.P.C. were recorded (Ex.14 for Kamran Attaullah; Ex.15 for Muhammad Anwar). Each denied the allegations; appellant Kamran produced a written plea of innocence (Ex.14/A), while appellant Anwar produced a written plea with annexures (Ex.15/B). Neither appellant opted to make a statement on oath under Section 340(2) Cr.P.C., nor did they lead defence evidence.

6. After closure, the learned Special Judge (Central-I), Karachi, heard summing-up arguments from the learned Prosecutor FIA, learned counsel for the complainant, and learned defence counsel for both appellants. The Trial Court settled two points—whether the appellants, as public servants posted at FIA CCC Karachi during March–August 2016, in connivance with each other and through absconding accused Abdul Qadir Memon, demanded and received illegal gratification of Rs.24 million from the complainant to favour him in Crime No. 04/2016; and, consequent liability. Holding the prosecution case proved, the Court convicted both appellants under Section 161 PPC (S.I. one year; fine Rs.100,000; two months S.I. in default) and under Section 5(2) PCA-II, 1947 (R.I. two years; fine Rs.500,000; three months S.I. in default), directing sentences to run concurrently and extending benefit of Section 382-B Cr.P.C.; the case against absconding co-accused was bifurcated as a Case No.02-A/2019.

7. The learned counsel for the appellant, Muhammad Anwar, fervently argued for acquittal. He argued that the conviction rests on the untested complaint of a deceased complainant and the incredible testimony of PW-

2, which was a material improvement over his initial statement and depicted an inherently improbable scene of counting a vast sum in a public restaurant. He further contended that the core documentary evidence, the computerized ledgers, was forensically proven to be fabricated, created over a year after the alleged events, and that the chain of custody for digital evidence was broken, rendering it unreliable. He concluded that the prosecution failed to prove any illicit motive, as the official act in question was approved by a competent authority, and the case was built on a quagmire of unreliable evidence that created not just a reasonable doubt but a probability of false implication. Lastly, the learned counsel prayed for acquittal of the Appellant.

8. The learned counsel for the appellant, Mr. Kamran Attaullah, contended that the conviction recorded by the learned Trial Court is illegal, perverse, and contrary to settled principles of criminal jurisprudence, as it rests upon conjectures, assumptions, and inadmissible material rather than upon credible, reliable, and unimpeachable evidence. He submitted that the initial fact-finding inquiry conducted by PW-6, a senior officer, had exonerated the appellant from all allegations, yet a subsequent inquiry and FIR were initiated by a junior officer in violation of the FIA Rules, rendering the entire proceedings void ab initio and without lawful authority. The learned counsel argued that the prosecution mainly relied upon photocopies and secondary documents without fulfilling the mandatory requirements prescribed under Articles 64 to 76 of the Qanun-e-Shahadat Order, 1984, thereby rendering such material inadmissible in evidence. He maintained that oral assertions could not substitute documentary proof and that documents produced by persons other than their authors possess no evidentiary worth. The learned counsel further submitted that there was inordinate and unexplained delay in the initiation of inquiry and registration of FIR, which seriously prejudiced the defence and rendered the prosecution case doubtful. He emphasized that the prosecution is under a strict legal burden to establish the guilt of the accused beyond reasonable doubt, and failure to discharge this burden mandates acquittal. Any single circumstance creating reasonable doubt, he argued, entitles the accused to its benefit as of right. It was further urged that the prosecution utterly failed to establish the essential elements of *mens rea* and *actus reus*, both being indispensable components of a criminal offence. He also pointed out that several alleged incriminating circumstances were never put to the appellant during his examination under Section 342, Cr.P.C., which, in law, cannot be used against him. The learned counsel argued that the impugned judgment is non-speaking, devoid of judicial reasoning, He further contended that the judgment reflects a complete absence of

judicial reasoning and non-compliance with the mandate of Section 24-A of the General Clauses Act, 1897. Lastly, it was submitted that the prosecution deliberately withheld material and natural witnesses, attracting the adverse presumption under Article 129(g) of the Qanun-e-Shahadat Order, 1984. He concluded that in the absence of any credible proof of demand, acceptance, or recovery of illegal gratification, the conviction of the appellant is unsustainable in law and liable to be set aside. The learned counsel has relied upon the case laws i.e. *Sanaullah v. The State* (1990 P.Cr.L.J 466); *Naimatullah Shah v. Farmanullah* (1980 SCMR 953); *Syed Hamid Saeed Kazmi v. The State* (2017 P.Cr.L.J 854); *Mohd. Karim & Kala v. The State* (2014 YLR 353); *Hasta Ismail v. Emperor* (AIR 1937 Lahore 593); *Ghulam Qadir v. The State* (2008 SCMR 1221); *Wahid Bux Baloch v. The State* (2014 SCMR 985); *Rashid Ahmad v. The State* (2001 SCMR 41); *Mushtaq Ali v. The State* (PLD 2008 Karachi 173); *M. Mansha v. The State* (2018 SCMR 772); *Zahid Kamal v. Ex-Officio Justice of Peace* (PLD 2020 Lah 358); *Dr. Waqar Hameed v. The State* (2020 SCMR 321); *Imtiaz @ Taj v. The State* (2018 SCMR 344); *Muhammad Shah v. The State* (2010 SCMR 1009); *Muhammad Nawaz v. The State* (2016 SCMR 267); *Irfan v. Muhammad Yousaf* (2016 SCMR 1190); *Ali Akbar v. The State* (SBLR 2016 Sindh 1543); *Bashir Ahmed v. The State* (PLD 2020 Sindh 202); *Muhammad Amin & Bashir v. The State* (2015 SCMR 630); *Attaullah alias Qasim v. The State* (2006 SBLR Sindh 1448); and *Azeem Khan v. Mujahid Khan* (2016 SCMR 274).

9. The learned counsel for the Complainant urged for the dismissal of the appeals. He argued that the Learned Trial Court correctly appreciated the evidence in its totality, and the ocular account of PW-2 was clear, consistent, and worthy of credence, being sufficiently corroborated by the circumstantial evidence of the ledgers and the subsequent conduct of the accused. He further maintained that the minor contradictions in the witnesses' statements were natural and did not vitiate the prosecution's core story, and the forensic report, coupled with the manual entries, established a clear link between the appellants and the receipt of illegal gratification. Lastly, the learned counsel prayed for dismissal of appeal.

10. The learned Assistant Attorney General, aligning with the arguments of the Complainant's counsel, supported the conviction. He asserted that the prosecution had successfully discharged its burden by producing sufficient oral, documentary, and technical evidence that conclusively proved the guilt of the appellants. He emphasized that the Trial Court, as the sole judge of facts, had given sound and logical reasons for its findings, and no interference by this Honourable Court was

warranted under the law. Lastly, the learned A.A.G. prayed for dismissal of appeal.

11. I have considered the arguments advanced by the learned counsel for the Appellants, the learned counsel for the Complainant, as well as the learned Assistant Attorney General, and have carefully examined the evidence available on record with their able assistance. The cardinal principle of criminal jurisprudence is that the prosecution must establish its case beyond reasonable doubt, and the burden of proof never shifts to the accused, who continues to enjoy the presumption of innocence until proven guilty. In cases involving allegations of corruption, although the standard of proof remains the same, the courts are required to exercise greater circumspection, ensuring that the evidence relied upon is of unimpeachable character, of sterling quality, and constitutes an unbroken chain connecting the accused with the commission of the offence. Upon a comprehensive scrutiny of the record, it emerges that the prosecution's case suffers from material contradictions, inherent discrepancies, and fatal lacunae, which collectively render the conviction unsustainable in law.

12. The original written complaint lodged by Sheikh Muhammad Munawar is the genesis of the prosecution. The complainant, however, died before he could be produced for testimony and cross-examination. The complainant's inability to testify deprived the accused of the opportunity to test and challenge the core allegations that gave rise to the FIR. A number of the prosecution's primary factual averments (dates, times, mode of payment, names of witnesses, and key particulars) are set out only in the written complaint and were never tested in open court by cross-examination. Where the central complainant is deceased, his written statement can be admissible as evidence of a complaint but carries limited weight unless supported by independent, reliable, and contemporaneous corroboration. In the present case the requisite contemporaneous corroboration is lacking. The trial court's heavy reliance on an untested complaint to found criminal convictions was therefore impermissible.

13. The inability to cross-examine the complainant is not a mere procedural lapse but a fundamental defect that strikes at the root of a fair trial. It seriously undermines the evidentiary worth of the complaint, particularly where, as in the present case, the complaint itself is vague, non-specific, and devoid of material particulars regarding the gravest allegations against the appellants. The learned Trial Court placed substantial reliance upon the testimony of PW-2 (Shujat Ali) to establish the alleged payment of Rs.10 million at Lasania Restaurant to one of the accused. However, a careful scrutiny of his deposition reveals multiple,

fatal infirmities. The witness introduced for the first time at trial a series of new and significant details—such as the precise date, scene of occurrence, denomination of currency notes, the act of counting cash, the mode of conveyance, and alleged WhatsApp confirmations—which were entirely absent from his statement recorded under Section 161, Cr.P.C. Such material improvements, particularly in a corruption case of this magnitude, render his evidence inherently unreliable. It is a well-settled principle that when a witness makes material improvements at trial, his testimony must be viewed with extreme caution, as such embellishments ordinarily indicate afterthought, fabrication, or an attempt to strengthen a weak case. PW-2 further admitted that, except for a single incident, much of his account was based on what he had been told by others. Hearsay evidence, being no substitute for direct proof, is inadmissible to establish either the demand or acceptance of illegal gratification. The description of counting millions of rupees in a public restaurant and then casually dropping the accused home is inherently improbable and inconsistent with ordinary human conduct and prudence. Courts of law cannot base conviction on improbable, uncorroborated, or unnatural evidence. Moreover, the prosecution failed to produce any independent corroboration of the alleged Lasania Restaurant incident—there was no CCTV footage, testimony of restaurant staff, record of WhatsApp messages, or any banking or documentary trail. In the absence of such corroboration, the unsubstantiated oral account of PW-2 cannot safely be relied upon to sustain a conviction.

14. The prosecution further relied on PW-3 (Muhammad Tariq) to establish a direct transactional link between the absconding accused and appellant Kamran Attaullah. However, his testimony is equally deficient, both legally and factually. PW-3 candidly admitted before the Court that he “cannot identify accused Kamran Attaullah”. Positive identification of the accused by a witness claiming to have delivered money is a fundamental requirement in proving acceptance of bribe; failure in this regard fatally undermines the evidentiary value of his statement. The witness was unable to specify and could not identify the particular FIA office where it occurred, and admitted that he neither opened the envelope nor knew its contents. Such vagueness and absence of specificity are wholly inconsistent with the degree of precision required to establish demand, delivery, or receipt of illegal gratification. Equally implausible is the witness’s claim that he entered a Deputy Director’s office within a secure federal agency, placed an envelope on the officer’s table, and left unchallenged, without any visitor record, verification, or independent witness. This assertion runs contrary to ordinary security protocol and

required corroboration, which the prosecution wholly failed to provide. PW-3 further stated that one Faisal Moosa had handed him the envelope, yet neither Faisal Moosa nor any intermediary was examined to support this alleged chain of events. The omission to examine such material witnesses constitutes a fatal lacuna in the prosecution's case, leaving an irreparable gap in the evidentiary chain.

In sum, neither PW-2 nor PW-3 provides credible, consistent, or independently corroborated evidence sufficient to establish the essential ingredients of demand or acceptance of illegal gratification. The reliance placed by the learned Trial Court upon such infirm, contradictory, and uncorroborated testimony was therefore legally untenable and contrary to the settled principles of criminal adjudication, which require proof beyond reasonable doubt and exclude conviction on doubtful or speculative evidence.

15. PW-4 (Inspector Rehmatullah Domki), the raid officer, was examined to establish the seizure of two CPUs from the office of absconding accused Abdul Qadir. However, his testimony revealed serious procedural lapses. He admitted that no written authorization or search warrant was obtained, no notice was served upon the owner or occupant, and no independent witness or local mashir was associated with the raid. The mashirnama (Ex.5/A) was thus prepared by official witnesses alone. Furthermore, the record shows that no arrival or departure entries were made in the official register to verify the timing or authenticity of the raid. These omissions render the recovery doubtful and devoid of legal sanctity. A recovery conducted without lawful authority, independent witnesses, or proper documentation cannot be treated as credible proof of guilt.

16. PW-5 (Mr. M. Shahrukh Shahnawaz), the then Judicial Magistrate, was examined to confirm the process of recording specimen voice samples of PW-2 at Radio Pakistan, Karachi. His testimony established that he merely supervised the procedure pursuant to an order of the learned District and Sessions Judge, Karachi South (Ex.3/N). He produced his certificate dated 17.07.2018 (Ex.3/L) and forwarding letter (Ex.3/M). However, he candidly admitted that he neither compared the questioned and specimen voices nor conducted any verification of identity. His role, therefore, was purely formal, confined to procedural supervision, and not to any forensic analysis or authentication. His statement consequently adds no substantive probative value to the prosecution's case on the crucial aspect of voice identification.

17. PW-6 (Dr. Mazhar-ul-Haq Kakakhail), the then Director, FIA CTW Islamabad, conducted the initial fact-finding enquiry (Ex.3/F) on the complaint of Sheikh Muhammad Munawar. He confirmed that he recorded the statements of relevant persons and forwarded his report to the Director General FIA. The report, however, did not attribute any conclusive criminal liability to the appellants but merely suggested that the matter be further examined by the competent authority. During cross-examination, PW-6 admitted that no CDRs were obtained, no analysts were examined, and that his report was confined to preliminary observations without any forensic verification or independent corroboration. His testimony thus supports the defence position that the initial enquiry exonerated the appellant, and the subsequent proceedings initiated by a junior officer lacked lawful justification.

18. PW-7 (Inspector Minhaj-ul-Hassan), the first Investigating Officer, deposed that he took over the investigation in March 2019 and produced various letters, diary entries, and travel history documents (Ex.9/A to Ex.9/I). However, he admitted that no fresh material was discovered during his tenure, no new witnesses were examined, and that the forensic analysts were never called to verify or explain their findings. He also conceded that the CDRs were not part of the enquiry report and that he relied entirely upon pre-existing material. His investigation was thus purely formal in nature and did not advance the prosecution's case beyond the speculative conclusions drawn in the enquiry report.

19. PW-8 (Mehmood-ul-Hassan), Deputy Director (Forensics), FIA Headquarters Islamabad, was examined to prove the forensic report annexed as Annexure "Q" to Ex.3/F. He stated that he had retrieved certain computer entries containing the names of both accused from two hard disks seized by FIA CTW Islamabad. However, he explained that the retrieved file "temp.dbf" had been recovered from the recycle bin and that its modification date differed from its creation date, which he attributed to the process of recovery. In cross-examination, he conceded that when a name was searched, only that specific name appeared on the screen, and that the data had been last modified in May 2017, well before the registration of FIR in 2019. Significantly, he did not certify the authenticity of the data or its linkage to any of the accused, nor did he conduct any forensic cross-verification with the alleged voice recordings or other digital evidence. His testimony, therefore, establishes at best the existence of a recovered file, but not its authenticity, integrity, or evidentiary relevance in terms of proving demand or receipt of bribe.

20. PW-9 (Inspector Khalid Naseem Khan), the last Investigating Officer, deposed that he took over investigation from PW-7 after his transfer. He produced the Zonal Board's decision letter dated 22.04.2020 (Ex.12/A), confirming approval to proceed on the existing material. He admitted that no fresh witness was examined and no new evidence was collected. His investigation merely endorsed the earlier work of his predecessor. The formal nature of his testimony demonstrates that the prosecution case rested entirely upon pre-existing, uncorroborated, and procedurally defective material.

21. Cumulatively, the evidence of PWs 4 to 9 fails to supply any credible or independent corroboration to the untrustworthy ocular accounts of PW-2 and PW-3. The alleged recovery of CPUs is procedurally defective; the forensic evidence is inconclusive and unlinked to the accused; the investigation is largely repetitive and administrative; and the enquiry officer himself did not find the appellants culpable. The entire chain of evidence, therefore, suffers from missing links, material contradictions, and procedural irregularities that strike at the root of the prosecution case. The settled law is that conviction cannot be sustained on speculative or incomplete evidence, and where serious doubt arises, it must be resolved in favour of the accused as a matter of right.

22. After careful reappraisal of the entire evidence and material available on record, it is evident that the prosecution has failed to discharge its legal burden of proving the essential ingredients of the alleged offences beyond reasonable doubt. The complainant, being the central figure in the prosecution narrative, was never subjected to cross-examination owing to his demise prior to trial; hence, his untested statement carries no evidentiary value in the eyes of law. The remaining witnesses, PWs 2 and 3, upon whom the trial court primarily relied, have been found to be unreliable, contradictory, and uncorroborated on material particulars. Their statements suffer from material improvements, omissions, and inherent improbabilities, and thus cannot safely form the basis of conviction. It is a settled principle that when the primary evidence is found infirm, the entire superstructure of the prosecution collapses.

23. The alleged recoveries, forensic reports, and documentary evidence also fail to inspire confidence. The seizure of CPUs was conducted without lawful authorization or independent witnesses, in violation of mandatory procedural safeguards. The forensic report (Annexure "Q" to Ex.3/F) is inconclusive, unverified, and disconnected from the accused, while the investigating officers themselves admitted that no fresh or independent evidence was collected during the investigation.

The entire case rests upon photocopies, secondary material, and speculative inference, unsupported by any cogent proof of demand, acceptance, or recovery of illegal gratification. Such deficiencies go to the root of the prosecution case and are not mere technical lapses but substantive legal defects that vitiate the conviction.

24. It is a trite principle of criminal law that the prosecution must prove its case through credible, independent, and unimpeachable evidence, and that suspicion, however grave, cannot substitute proof. The record in the present case reflects a chain of procedural irregularities, missing links, and evidentiary voids that render the prosecution story inherently doubtful. The failure to associate independent witnesses, the absence of lawful sanction for initiation of proceedings, reliance on inadmissible documents, and the withholding of material witnesses collectively create reasonable doubt about the guilt of the appellants. It is well settled through consistent pronouncements of the superior courts that if a single circumstance creates reasonable doubt, the accused is entitled to its benefit as of right, not as of grace.

25. In view of the foregoing analysis, this Court is of the considered opinion that the prosecution has failed to establish the charge of demand, acceptance, or receipt of illegal gratification against the appellants beyond reasonable doubt. The conviction recorded by the learned Trial Court is, therefore, found to be unsustainable in law and the conviction cannot be sustained on presumptive or doubtful evidence and that the benefit of doubt must always go to the accused.

26. Persons who are said to have been directly involved in transferring the cash (e.g., Faisal Moosa) and key staff (Lasania employees, front persons) were either not examined or not produced. The failure to call such witnesses when their testimony would be likely to corroborate or contradict crucial elements is a serious investigative omission. The alleged “front man” Abdul Qadir Memon remained absconding and central evidence connected to him (original ledgers, contemporaneous entries, bank records in his control) were not produced. The prosecution cannot reasonably rely on second-hand or post-dated materials as a substitute. No bank statements showing replacement/receipt of large sums, no contemporaneous cash withdrawal evidence, no proof of cash movement, and no verification of the complainant’s alleged Rs. 24 million withdrawals were produced. For a high monetary bribery charge, this omission is inexcusable. The initial fact-finding enquiry by the senior officer (PW-6) made no criminal finding against the appellants and expressly noted lack of particularisation. A subsequent enquiry by a junior officer (PW-1)

produced materially different conclusions. Such divergence raises concerns regarding the objectivity and genesis of the criminal prosecution. The record suggests that certain investigative steps and decisions (including initiation of FIR) may have been taken without strict adherence to relevant administrative rules and proper supervisory approvals. While departmental non-compliance may not automatically vitiate criminal proceedings, it is relevant to the court's assessment of the fairness, integrity and reliability of the resulting criminal evidence. As noted earlier, the seizure documentation is deficient in essential formalities, absence of a written raid order, sealing inconsistencies, and absence of contemporaneous station diary entries , all of which significantly impair trust in the evidentiary trail. Where an investigation into alleged high-value corruption fails to take elementary steps, identify and examine obvious direct witnesses, seize original contemporaneous documents and bank records, obtain CDRs for the period charged, and maintain an unbroken chain of custody for digital artifacts, the prosecution case must suffer accordingly. The cumulative investigative lacunae in the present matter, when weighed with the weakness of oral evidence and compromised documentary material, fatally weaken the prosecution case.

27. Section 5(2) of PCA-II requires application to the particular offence within the scheme of Section 5(1). The record does not clearly indicate which specific clause of Section 5(1) (i.e., the precise "acceptance" or "agreement" or mode) the appellants were found guilty of. Fundamental clarity in charge and sectional application is necessary to ensure an accused can meaningfully meet the case against him. The trial court's failure to ensure and record this specificity undermines the legal basis of conviction under the PCA. The law is settled that criminal conviction rests on proof beyond reasonable doubt. In corruption cases, courts must be particularly cautious and require unimpeachable evidence. The cumulative effect of the evidentiary defects described above falls well short of that standard.

28. The learned Trial Court, as the primary fact-finding forum, was entitled to assess the credibility of evidence and to accept or reject it on rational grounds. However, it was equally duty-bound to extend to the appellants the benefit of every reasonable doubt and to refrain from recording a conviction on the basis of conjecture or surmise. Upon a careful reappraisal of the entire record, several features emerge which, both individually and cumulatively, make the conviction legally unsustainable and necessitate acquittal: (a) The complainant passed away prior to trial, and his written complaint—already vague and lacking in

particulars—remained untested through cross-examination. Consequently, it holds little or no probative value in law. (b) The principal eyewitnesses, PW-2 and PW-3, made material improvements, admitted hearsay, failed to identify the accused, and offered inherently improbable accounts. Their testimonies stand uncorroborated by any independent or documentary evidence. (c) The ledgers relied upon by the prosecution were created or modified long after the alleged events; the principal entry concerning the largest alleged payment is missing from the computerized record. Such discrepancies seriously impair the authenticity and evidentiary worth of the documents. (d) The forensic and digital evidence suffers from serious defects in chain of custody, contradictory seizure and dispatch dates, and outputs indicating recovery from deleted or modified data sources. These defects destroy the reliability of the digital evidence. (e) The CDRs and purported voice recordings are temporally inconsistent with the period of the alleged offence and are unaccompanied by any expert matching or verification linking them to the appellants. (f) The investigation was perfunctory and selective. The investigating officers failed to examine obvious corroborative witnesses, to seize contemporaneous financial or banking records, or to verify travel and presence data that could either support or contradict the disputed ledger entries. (g) The learned Trial Court did not ensure clarity in the charge under Section 5(2) of the Prevention of Corruption Act, 1947, and omitted to address or reason through the multiple infirmities appearing in the prosecution evidence. Taken cumulatively, these defects do not merely weaken the prosecution's case—they render it fundamentally unsafe. The nature and quality of the available evidence fail to exclude, as the law requires, every reasonable hypothesis consistent with the appellants' innocence. In such circumstances, the appellants are entitled to the benefit of doubt as a matter of right.

29. In conclusion, the prosecution has failed to prove beyond reasonable doubt that either appellant demanded or accepted any illegal gratification in connection with an official act. The untested complaint of the deceased, material improvements in testimony, unreliable identification, post-dated and inconsistent documents, broken digital chain of custody, absence of a financial trail, and grave investigative lapses collectively render the convictions unsafe. Particularly, the allegation that a sum of Rs.10 million was counted and handed over at *Lasania Restaurant*, a public venue, is inherently improbable and inconsistent with ordinary human conduct, thereby further undermining the credibility of the prosecution's case. Accordingly, the impugned judgments passed by the learned Trial Court are unsustainable in law and are liable to be set aside.

30. For the foregoing reasons:

(a) Criminal Appeals No. S-601 of 2021 (Muhammad Anwar) and No.S-619 of 2021 (Kamran Attaullah) are allowed. The impugned Judgments dated 29.10.2021 passed by the learned Special Judge (Central-I), Karachi, in Case No. 02/2019, convicting the appellants under Sections 161, P.P.C. and 5(2) of the Prevention of Corruption Act, 1947, are set aside. Both appellants are acquitted of all charges arising out of FIR No. 01/2019 registered at Police Station FIA Anti-Corruption Circle (ACC), Karachi.

(b) The sentences of imprisonment and fines imposed by the Trial Court are vacated.

(c) The bail bonds furnished by the appellants stand discharged, and their sureties are released.

(d) Nothing in this judgment shall preclude the competent authorities from initiating lawful departmental or administrative proceedings, where warranted, in accordance with law and due process.

(e) Proceedings against any absconding co-accused may continue strictly in accordance with law. A copy of this judgment shall be transmitted to the learned Trial Court for immediate compliance.

**JUDGE**