

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Criminal Acquittal appeal No. S-561 of 2022
(Muhammad Akhtar Ali Raza vs The State and another)

Date	Order With Signature Of Judges
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1. *For order on office objection*
2. *For hearing of case*

25-11-2025.

Mr. Fazal-ur-Rehman Mirani, Advocate for appellant.
 Mr. Rafique Ahmed Baloch, Advocate for Respondents No.2
 Mr. Muhammad Mohsin Mangi, Assistant Prosecutor General, Sindh.

Ali Haider 'Ada' Through this criminal acquittal appeal, the appellant has challenged the judgment dated 26.08.2022 whereby Respondent No.2 was acquitted by the Judicial Magistrate-XIV, Karachi East in Criminal Case No.761 of 2021 arising out of FIR No.10 of 2021, registered under Section 489-F PPC at Police Station Korangi.

2. Briefly, the case of the complainant is that he is engaged in the scrap business, and on 07.03.2020 the accused represented that he had scrap material available for sale. The complainant agreed to purchase the same and allegedly paid an advance amount of Rs.25,00,000/-. When the accused failed to supply the scrap, he issued two cheques, one for Rs.20,00,000/- dated 10.09.2020 and another for Rs.5,00,000/- dated 06.10.2020. Both cheques were dishonoured on 20.10.2020, and thereafter the complainant lodged the FIR on 03.01.2021.

3. After the usual investigation, challan was submitted and the trial Court took cognizance. Necessary documents were supplied, and charge was framed on 23.08.2021, to which the accused pleaded not guilty and claimed trial.

4. The prosecution examined the complainant as PW-1, who produced the FIR, site inspection memo, dishonoured cheques and bank memos. PW-2 Muhammad Aslam claimed to be an eyewitness to the transaction and also acted as mashir of site inspection. PW-3 SIP Mazhar Shah recorded the FIR, and PW-4 SIP Akram Qaimkhani, the Investigating Officer, produced the bank letter and verification report. After recording these witnesses, the prosecution closed its side.

5. The accused, in his statement under Section 342 CrPC, professed innocence and sought acquittal. He neither examined himself on oath nor produced defence evidence. After hearing the parties, the trial Court acquitted the accused. The complainant has questioned that acquittal.

6. The learned counsel for the appellant argued that the prosecution successfully established its case, which the trial Court failed to appreciate. It was submitted that the accused had admitted some liability in his statement, and such admission was sufficient for

conviction. It was further argued that the trial Court based its findings on minor discrepancies, and therefore the acquittal should be reversed.

7. On the contrary, learned counsel for the accused submitted that the prosecution case suffered from material contradictions. It was contended that the complainant failed to establish that any amount was advanced against a legally enforceable liability. The verification report revealed that one cheque of Rs.20,00,000/- was issued in the name of one Nabeel, who was never examined. The prosecution withheld the best possible evidence, creating serious doubt. Learned counsel supported the acquittal. The learned APG also supported the impugned judgment and submitted that the prosecution had failed to prove its case.

8. Arguments have been heard and the record has been examined with care.

9. The settled principle is that the scope of interference in an appeal against acquittal is extremely narrow. An accused who has been acquitted enjoys a double presumption of innocence. Unless the judgment is shown to be perverse, arbitrary, or suffering from gross misreading or non-reading of evidence, the appellate Court is slow to interfere. Reliance is placed on the cases of **Fida Hussain alias Saboo v. State (2025 SCMR 993)** and **Sardaran Bibi v. State (2024 SCMR 1116)**.

10. Coming to the merits, it is observed that although the cheques were dishonoured on 20.10.2020, the FIR was lodged on 03.01.2021, after more than two months, without any plausible explanation. Such an unexplained delay casts serious doubt on the prosecution's case and suggests that the matter was initiated after deliberation to misuse the process relating to negotiable instruments.

11. The prosecution relied on PW-2 Muhammad Aslam as an eyewitness to the transaction, but he admitted that he never saw any scrap material. Even the complainant failed to point out any site or location where scrap stock existed. In ordinary business practice, it is highly unlikely that a sum of Rs.25,00,000/- would be paid without inspection of goods or any documentary assurance. This renders the prosecution's story doubtful. No documentary proof of the alleged payment was produced. The complainant admitted that the accused had issued return vouchers, yet those vouchers were not produced in evidence. The prosecution therefore failed to establish that any amount had been paid against a legally enforceable obligation, which is an essential ingredient of the offence under Section 489-F PPC.

12. In view of these major contradictions, coupled with the prosecution's failure to establish the fulfilment of any legally enforceable obligation, and further considering the unexplained delay in lodging the FIR, the prosecution case becomes highly doubtful. This conclusion is fortified by the principles laid down in **Iqbal Ahmed v. Syed Danish Hussain Zaidi (2022 YLR Note 202)**, **Ali Sher v. The State (2022 YLR Note 138)**, **Muhammad Yasin v. Muhammad Zubair Farooqui and another (2022 YLR Note 98)**, **Abdul Majeed**

v. The State and another (2022 PCrLJ Note 22), and Muhammad Ashraf v. The State (2021 PCrLJ 586).

13. Moreover, the verification report of the Bank showed that the cheque of Rs.20,00,000/- was issued in favour of Nabeel, not the complainant. The prosecution failed to explain why the cheque was issued in his name or what his connection was with the transaction. Despite being the complainant's brother, Nabeel was not examined as a witness. This omission attracts adverse inference under Article 129(g) of the Qanun-e-Shahadat Order, 1984. Reference may be made to **Abid v. State (2025 SCMR 1710)** and **Muhammad Asif v. Tanveer Iqbal (2021 YLR 324)**. Furthermore, the relevant bank officials were not produced, which further weakens the prosecution case.

14. It is a well-settled rule that when material contradictions create doubt, the benefit must go to the accused. Reliance is placed on **Qurban Ali v. State (2025 SCMR 1344)**.

15. In view of the overall circumstances, including the unexplained delay, contradictions, lack of documentary evidence, non-examination of material witnesses, and failure to prove a legally enforceable liability, there appears no misreading or non-reading of evidence by the trial Court that would warrant interference. The trial Court rightly extended the benefit of doubt to the accused. Accordingly, this criminal acquittal appeal is dismissed and the judgment of acquittal dated 26.08.2022 is maintained.

JUDGE

Amjad//P.S.