

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

1st Appeal No.28 of 2016

Present: Justice Jawad Akbar Sarwana

Appellant : Muhammad Younus Khan @ Annu Zai
s/o Imdad Khan, through Mr.Farhad Ali Abro,
Advocate

Respondent : Qaisar Ali Khan s/o Shujat Ali Khan ,
Through Irfan Ali Qureshi, Advocate. Nemo.

Date of hearing : **02.12.2025**

Date of decision : **08.12.2025**

ORDER

JAWAD AKBAR SARWANA, J: Appellant/defendant, Muhammad Younus Khan alias Annu Zai, is aggrieved with the judgment and decree dated 26.09.2016 and 04.10.2016, respectively, passed by the learned V-Additional District Judge, Hyderabad, in Summary Suit No.19/2011¹, filed by the respondent/plaintiff-Qaisar Ali Khan, decreed for the amount of Rs.3,204,000/-

2. Learned counsel for the appellant/defendant contends that learned V-Additional District Judge, Hyderabad did not appreciate that the appellant/defendant had already paid the respondent/plaintiff an amount exceeding the claim filed by the respondent/plaintiff based on the dishonoured cheque. He contended that, based on the evidence available on record, the accounts between the parties showed a credit amount due and payable by the respondent/plaintiff to the appellant/defendant. Therefore, nothing is/was payable by the appellant/defendant now.

3. Heard learned counsel for the appellant/defendant and perused the documents available on record. It appears that, based on the

¹ Available on Pages 19 to 33 of the 1st Appeal

evidence recorded, the appellant/defendant had issued the following cheques as per the table below: -

Sr.No.	Cheque No.	Date	Name of Bank	Amount
1.	22977789	27.01.2009	MCB Bank Ltd. Airport Road Latifabad No.8 Hyderabad	Rs.8,64,000/-
2.	22977790	27.06.2009	MCB Bank Ltd. Airport Road Latifabad No.8 Hyderabad	Rs.5,40,000/-
3.	4184186	15.08.2009	My Bank Latifabad Branch	Rs.6,00,000/-
4.	4184187	27.10.2009	My Bank Latifabad Branch	Rs.6,00,000/-
5.	4190243	20.11.2009	My Bank Latifabad Branch	Rs.6,00,000/-
Total				Rs.3,204,000/-

4. During evidence, the respondent/plaintiff examined the Operations Manager and the Branch Manager as well as produced the five (5) bounced cheques, bank memos, etc, to corroborate the genuineness of the five (5) cheques being dishonoured and the underlying business transaction. While no evidence was produced to rebut the claim of the respondent/plaintiff, the appellant/defendant did not bring on record documentary evidence to substantiate his counterclaim, viz, that the respondent/plaintiff allegedly owed money to him and, in fact, money was payable by the respondent/plaintiff to the appellant/respondent. Indeed, the appellant/defendant is/was appears to have been seeking accounts and, in such an event, in the first instance ought to have filed a separate suit for the same rather than agitating such a claim, as a matter of defence in a summary suit, which is based on the dishonourment of cheques and entails summary proceedings, and, once conditional leave to defend was granted, he ought to have filed a counter-claim and paid court fee, or atleast made some form of prayer or sought such relief. In the instant case, he did nothing and must now deal with the consequences.

5. In the circumstances, I do not find any defect or irregularity in the impugned judgment and decree, and there is no cause made out for me to interfere in the same. Accordingly, this appeal is **dismissed**.

JUDGE

AHSAN K. ABRO