

THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No.04 of 2021

For Applicant:	In person.
For Respondent: Complainant)	Mr. Ali Nasir, advocate (for
For State:	Miss Hina, Assistant PG
Date of hearing:	21-03-2025
Date of Judgment:	09-04-2025

JUDGMENT

Jan Ali Junejo, J.— This Criminal Revision Application has been filed by the Applicant, Sultan Ahmed, under Section 435 read with Section 439 of the Cr.P.C., seeking to set aside the concurrent findings of conviction and sentence recorded by the learned Vth Judicial Magistrate, Karachi Central, in Criminal Case No.1253/2019 and maintained by the learned Additional Sessions Judge-VII/MCTC-02, Karachi Central, in Criminal Appeal No.14/2020. The Applicant was convicted under Section 489-F of the Pakistan Penal Code (PPC) and sentenced to two years of rigorous imprisonment with a fine of Rs. 15,000/-. In case of default, he was to undergo one month of simple imprisonment.

2. The prosecution's case was that the Applicant, in a business partnership with the Complainant, Sarfaraz Yahya, executed an

agreement dated 15-05-2018, under which the Complainant invested Rs. 10 million in an import business. Subsequently, due to disputes, the parties executed a second agreement dated 02-01-2019, wherein the Applicant agreed to return Rs. 99,55000 lacs through 15 postdated cheques. Out of these, two cheques—Cheque No. 077082341 dated 12-01-2019 for Rs. 7 lacs and Cheque No. 077082346 dated 12-01-2019 for Rs. 7 lacs, both drawn on Meezan Bank, Nazimabad No. 3 Branch, Karachi—were presented for encashment at Faysal Bank, Nazimabad Branch, Karachi, on 23-01-2019 but were dishonored on 24-01-2019 due to insufficient funds. The Complainant, upon confronting the Applicant, was allegedly threatened, leading to the registration of FIR No. 133/2019 at P.S. Nazimabad, Karachi, under Sections 489-F, 420, 406, 34 PPC.

3. During the trial, the prosecution examined seven witnesses to establish its case:

1. PW-01 Complainant Sarfaraz Yahya (Exh.05) – Produced:

- Agreement dated 15-05-2018 (Exh.05/A)
- Agreement dated 02-01-2019 (Exh.05/B)
- Cheque No. 077082341 dated 12-01-2019 (Rs. 7 lacs) (Exh.05/C) along with return memo (Exh.05/D)
- Cheque No. 077082346 dated 12-01-2019 (Rs. 7 lacs) (Exh.05/E) along with return memo (Exh.05/F)
- Copy of FIR (Exh.05/W)

2. PW-02 Farhan (Meezan Bank Manager) (Exh.06) – Produced:
 - Verification letter from I.O regarding dishonored cheques (Exh.06/A)
3. PW-03 Khalid Hussain (Faysal Bank Manager) (Exh.07) – Produced:
 - Confirmation report on dishonored cheques (Exh.07/B)
4. PW-04 ASI Muhammad Naeem (First I.O.) (Exh.08) – Produced:
 - Entries of his visit to banks for verification (Exh.08/A)
5. PW-05 Syed Muhammad Asim Ali (Witness to Agreements) (Exh.09) – Testified that:
 - He was present during execution of agreements dated 15-05-2018 and 02-01-2019.
 - He witnessed cheques being handed over to the Complainant by the Applicant.
6. PW-06 SIP Sarfaraz Alyana (Second I.O.) (Exh.10) – Produced:
 - Investigation reports and copies of documents collected from banks and parties.
7. PW-07 SIP Abdul Karim (Exh.12) – Produced:
 - Statements of complainant recorded during investigation.

The prosecution closed its evidence at Exh.13. The statement of the Applicant Sultan Ahmed was recorded under Section 342, Cr.P.C., at Exh.16, wherein he:

- Denied the allegations, stating that he never voluntarily issued the cheques.
- Claimed that he was forced to sign 18 cheques at P.S. Nazimabad in presence of SIP Abdul Karim.
- Alleged that the Complainant coerced him into signing blank stamp papers and took away the title documents of his house.
- Contended that he had filed Civil Suit No. 865/2019 before the Hon'ble High Court for cancellation of cheques and stamp papers.
- Asserted that the agreements were fabricated and prepared after the dispute arose.
- Maintained that the FIR was lodged with considerable delay, without any plausible explanation.
- Objected that the place of issuance of cheques was not mentioned in the FIR, making the prosecution's case weak.

The Applicant, despite making several claims in his defense, did not opt to examine himself on oath under Section 340(2) Cr.P.C. nor did he produce any witness or documentary evidence to support his defense. The burden was upon the Applicant to prove that the cheques were taken under coercion, but he failed to produce any independent witness to substantiate this claim. No complaint, FIR, or order under Section 22-A, Cr.P.C. was produced to support the allegation that he was forced to sign cheques at the police station. His own application to CPLC Chief Sindh (Exh. S-49) contradicted his defense, as he acknowledged issuing postdated cheques and merely requested more time to pay. His failure to produce any bank statement or financial records to

contradict the prosecution's evidence further weakened his stance. Accordingly, his defense plea remained unsubstantiated and was rightly discarded by the learned trial and appellate Courts.

4. The Applicant, appearing in person, argued that he is innocent and has been falsely implicated due to a business dispute. He claimed that he was coerced into signing 18 cheques at P.S. Nazimabad in the presence of SIP Abdul Karim, and the Complainant later misused two of these cheques. He further contended that before the registration of the FIR, he had filed Civil Suit No. 865/2019 for the cancellation of these cheques and stamp papers. He highlighted that there was a delay in lodging the FIR, and contradictions existed in the Complainant's statements regarding the total investment amount, making the case doubtful. He further pointed out that the 2nd agreement dated 02-01-2019 appeared dubious, as the stamp paper was issued on 09-01-2019. He prayed for acquittal, arguing that the prosecution had failed to establish its case beyond a reasonable doubt.

5. Learned counsel for the Complainant, Mr. Ali Nasir, opposed the revision, contending that the conviction was rightly recorded as the Applicant issued cheques dishonestly to repay an investment obligation, which were dishonored. He argued that

the Applicant's defense of coercion was an afterthought, as he failed to provide any direct evidence of coercion. He further submitted that both agreements dated 15-05-2018 and 02-01-2019 were executed voluntarily and that the dishonor of cheques was supported by bank records and witness testimony. He also pointed out that the Applicant himself admitted his business dealings with the Complainant and issuance of postdated cheques in his application to CPLC Chief Sindh (Exh. S-49). Lastly, he argued that the delay in lodging the FIR was well explained and that the essential ingredients of Section 489-F PPC were fully established.

6. Miss Hina, Assistant Prosecutor General, supported the impugned judgments, arguing that both courts below correctly evaluated the evidence and that the prosecution successfully proved its case beyond a reasonable doubt. She contended that the Applicant's defense lacked credibility, as he failed to bring any independent evidence to support his claim of coercion. She further submitted that criminal intent (*mens rea*) was evident, as the Applicant knowingly issued cheques despite having insufficient funds. She emphasized that there was no legal infirmity or procedural irregularity in the judgments of the Courts below and prayed for dismissal of the revision application.

7. After careful evaluation of the entire record, it is evident that the prosecution successfully established its case beyond a reasonable doubt, proving that the Applicant issued the subject cheques (Nos. 077082341 and 077082346, each for Rs. 7 lacs, dated 12-01-2019, drawn on Meezan Bank, Nazimabad Branch, Karachi) to fulfill a financial obligation, and both were dishonored due to insufficient funds. The defense plea of coercion was an afterthought, as the Applicant failed to present any credible evidence—documentary or oral—to support his claim that the cheques were obtained under duress at P.S. Nazimabad in presence of SIP Abdul Karim. The Applicant's failure to examine himself on oath under Section 340(2) Cr.P.C. or to produce any independent witness to corroborate his stance further weakens his case. The contradictions in the Applicant's statements, particularly his own application to CPLC Chief Sindh (Exh. S-49), where he admitted issuing postdated cheques and merely requested time to pay, negate his claim of coercion. The delay in lodging the FIR was convincingly explained by the prosecution, and the dishonor of cheques was corroborated by bank officials and documentary evidence, including return memos and confirmation reports. The learned trial court and appellate court properly evaluated the evidence, and there is no legal infirmity, misreading of evidence, or violation of due process that would

justify interference by this Court. The essential ingredients of Section 489-F PPC—issuance of cheque, dishonesty, fulfillment of an obligation, and subsequent dishonor—were fully met, warranting conviction. In similar circumstances, in the case of ***Muhammad Sultan v. The State* (2010 SCMR 806)**, the Honourable Supreme Court of Pakistan upheld the conviction and observed: “*A perusal of Section 489-F of the Pakistan Penal Code (PPC) reveals that the provision applies only if the prosecution successfully establishes the following conditions:*

1. *Issuance of a cheque.*
2. *Dishonest intent behind issuing the cheque.*
3. *Purpose of issuance must be either:*
 - a) *Repayment of a loan, or*
 - b) *Fulfillment of an obligation (which broadly applies to lawful agreements, contracts, services, promises, or any act that legally binds a person to perform).*
4. *Dishonor of the cheque upon presentation.*

However, the accused can present a valid defense by proving:

1. *He had made arrangements with his bank to ensure the cheque would be honored.*
2. *The bank was at fault for dishonoring the cheque.*

If the accused establishes these two facts with tangible evidence—and only after the prosecution has proven the ingredients of the offense—he would be absolved of liability”. In the present case, the

prosecution successfully proved all the essential elements constituting an offense under Section 489-F, PPC. However, the Applicant failed to substantiate his defense, thereby confirming the offense against him.

8. In light of the above discussion, I find no merit in this Criminal Revision Application. Both the trial Court and the Appellate Court have correctly evaluated the evidence and applied the relevant law in convicting the applicant. Accordingly, the present Criminal Revision Application is dismissed, and the conviction and sentence imposed by the trial Court, as upheld by the Appellate Court, are hereby affirmed.

JUDGE