

# IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

**Mr. Justice Muhammad Iqbal Kalhoro**

**Mr. Justice Syed Fiaz ul Hassan Shah**

Criminal Accountability Appeal No.06 of 2018

*Muhammad Irfan S/o Muhammad Maqsood Hussain*

Criminal Accountability Appeal No.07 of 2018

*Madad Ali Sheikh S/o Dil Murad Sheikh*

Criminal Accountability Appeal No.08 of 2018

*Zafar Iqbal S/o Mehboob Ellahi*

Criminal Accountability Appeal No.09 of 2018

*Ghulam Mustafa Shaikh S/o Haji Umer Shaikh and  
Muhammad Anis S/o Muhammad Ramzan*

Criminal Accountability Appeal No.10 of 2018

*Salahuddin Mughal S/o Haji Deen Muhammad*

*A N D*

Criminal Accountability Appeal No.11 of 2018

*Syed Muhammad Wasim S/o Syed Muhammad Saleem*

*Versus*

*The STATE through Chairman, National Accountability Bureau*

APPELLANT in Appeal No.6/2018	:	Muhammad Irfan Through Mr. Aamer Raza Naqvi, Advocate.
APPELLANTS in Appeals Nos.7&8/2018	:	Madad Ali Sheikh and Zafar Iqbal (in person)
APPELLANT in Appeal No.9/2018	:	Ghulam Mustafa Shaikh and Muhammad Anis Through Mr. Mukesh Kumar Khatri, Advocate.
APPELLANT in Appeal No.10/2018	:	Salahuddin Mughal Through Mr. Zorawar Bin Israr a/w Mr.Ahmed Raza Shah, Advocates
APPELLANT in Appeal No.11/2018	:	Syed Muhammad Wasim Through Mr. Meer Mola Bux for Mr.Asad Ashfaq Tola, Advocate
RESPONDENT / THE STATE	:	National Accountability Bureau Through Syed Khurram Kamal, Special Prosecutor.
Date of Hearing	:	25.11.2025
Date of Decision	:	25.11.2025

## **J U D G M E N T**

*Dr. Syed Fiaz ul Hassan Shah, J :-* Through these Criminal Accountability Appeals, the Appellants have challenged the common Judgment of conviction dated 22.03.2018 (“**impugned Judgment**”) passed by the learned Judge, Accountability Court No.IV Sindh, Karachi (**Trial Court**) in NAB Reference No.18 of 2007 filed by the National Accountability Bureau (**NAB**) wherein the Appellants and other Accused have been convicted and sentenced under section 10(a) of National Accountability Ordinance,

1999 (**NAO**) for the commission of offence of corruption and corrupt practices purportedly committed under section 9(a)(iii)(iv)(vi)&(xii) NAO, 1999. The Appellants Salahuddin Mughal and Syed Muhammad Irfan were convicted and sentenced to suffer Rigorous Imprisonment (**R.I**) for ten (10) years each and also to pay fine of Rs.15,00,000/- (Rupees Fifteen Lac only) each and in default thereof to further suffer R.I. for two (02) years each while extending benefit of section 382-B, Cr.P.C. The Appellants Madad Ali Shaikh and Syed Muhammad Wasim as well as Ghulam Mustafa Shaikh, Muhammad Anis and Zafar Iqbal were convicted and sentenced to suffer R.I. for seven (07) years each and also to pay fine of Rs.5,52,000/- (Rupees Five Lac Fifty two Thousand only) each and in default thereof to further suffer R.I. for two (02) years. They have also been granted benefit of section 382-B, Cr.P.C. Further, the Appellants Salahuddin Mughal, Syed Muhammad Irfan, Madad Ali Sheikh, Syed Muhammad Wasim, Ghulam Mustafa Sheikh, Muhammad Anis and Zafar Iqbal also disqualified from being elected, chosen, appointed or nominated as a member of representative of any public body or any statutory or local authority or in service of Pakistan or any province in terms of section 15 of NAO for a period of ten (10) years to be reckoned from the date of release after serving out sentence awarded to them and restricted to obtain any financial facility in the form of loan or advances from any financial institutions controlled by Government for same period of ten (10) years.

2. The NAB authorities filed Reference and placed material before the trial Court with request to try and convict the Appellants while stating that during the financial year 2000-2001 the Appellant Salahuddin Mughal was posted as Secretary, Sindh Workers

Welfare Board (**SWWB**), Labor Department, Govt of Sindh and the accused/appellant Syed Muhammad Irfan was working as Welfare Officer, SWWB under the administrative command of the appellant Salahuddin Mughal. It is the case of NAB that SWWB received a grant-in-aid for specific purpose “Jahaiz” (Dowry) amounting to Rs.31,500,000/- for distribution amongst deserving individual worker of Private Industrial Sector at Rs.20,000/- for the marriages of their daughter(s). After receiving grant-in-aid, the appellant Salahuddin Mughal, Secretary, SWWB invited applications from deserving workers through public advertisement in daily newspaper “Nawa-e-Waqt” dated 16.09.2000, while appellant Syed Muhammad Irfan, as Welfare Officer, scrutinized the applications of eligible workers for such grant. In a response to such public advertisement, 5741 applications were received from 132 Private Industrial Sector in the office of SWWB. Thereafter, the Scrutiny Committee in its meeting held on 09.04.2001 decided that all the applications of candidates were required to be verified from the Private Industrial Sector. After such verification, the vetted list of workers was placed in the Minutes of Meeting held on 07.05.2001 and the Scrutiny Committee had validated 1575 candidates out of 4694 candidates/workers [as mentioned at Paragraphs 2, 3 and 4 of NAB Reference available at page 321 and 323 of Paper Book]. On 30.06.2001, Cheque Distribution Ceremony was held and 200 cheques were distributed amongst the successful workers in the presence of representative of Factories and Worker Unions and others. One private lawyer PW-33 Muhammad Khusheed filed complaint after hearing embezzlement of workers funds that the Appellant (now deceased) Salahuddin Mughal has embezzled the

funds through payment to fake and impersonated workers which led to a NAB inquiry.

3. During investigation the NAB found that out of 1575 applications 288 workers were not genuine, as they were not the workers and they had fraudulently received grant of Rs.20,000/- each through corruption and corrupt practices at the instigation of SWWB Officials Saluddin Mughal and Muhammad Irfans (Appellants). According to NAB prosecution, 288 cheques were released in favour of bogus workers culminating Rs.57,60,000/-, public money have been siphoned off by impersonated workers and public officials have wrongfully obtained financial gains.

4. In support of such allegations, the NAB investigation detected bank accounts bearing No.(1) 010-2185-1, (2) 101-1630-1, (3) 101-1180-1 and (4) 101-0211-1, which were operated by appellants Ghulam Mustafa Shaikh, Muhammad Anis and Zafar Iqbal and 11 fictitious accounts were prepared by the appellant Mumtaz Ahmed (now deceased), who was working as Labour Officer in a Private company M/s. Globe Textile Mills (Pvt) Limited, Landhi Karachi. It is further stated that out of embezzlement amount of Rs.57,60,000/- appellant Syed Muhammad Irfan filed an application under section 25-A of NAO for voluntary return of embezzled amount to the tune of Rs.14,40,000/- and the remaining outstanding amount as claimed by NAB is Rs.43,20,000/- but the same was not finalized.

In the trial, NAB examined 33 witnesses to prove the charge. The appellants examined themselves under section 342, Cr.P.C. and denied the charge. Nonetheless, the appellants were convicted and sentenced in the terms as above through the impugned judgment, hence this appeal.

5. We have heard the learned counsel for the appellants, appellants in person as well as learned Special Prosecutor for NAB and with their assistance perused the record carefully.

6. It has been observed that different sets of appellants were joined together, each assigned a distinct role in the commission of the offence involving embezzlement of Rs.57,60,000/-, while working at different places. Appellant Salahuddin in Crl. Acctt. Appeal No.10/2018 and Appellant Muhammad Irfan in Crl. Acctt. Appeal No.06/2018, serving respectively as Secretary and Welfare Officer in the Sindh Workers Welfare Board (SWWB), Labor Department, Government of Sindh, have been charged with corruption and corrupt practices in their official capacity. Appellant Madad Ali Shaikh in Crl. Acctt. Appeal No.07/2018, Appellant Syed Mohammad Waseem in Crl. Acctt. Appeal No.11/2018, along with Muhammad Shoaib Wasti (now deceased), all bankers at UBL, Landhi Branch, Karachi, have been charged with abetment and facilitation. They allegedly processed and credited 28 and 70 cross-cheques wrongfully into accounts of private individuals. Appellants Zafar Iqbal in Crl. Acctt. Appeal No.08/2018, Ghulam Mustafa Shaikh, and Muhammad Anis in Crl. Acctt. Appeal No.09/2018 were the private beneficiaries of the embezzled amount. They were not entitled to receive grant-in-aid through cross cheques issued in favour of workers. The term worker is defined in Sindh Worker Compensation Act, 2015 (repealed Workmen Compensation Act, 1923).

7. Accordingly, the appellants are divided into three distinct sets: (i) Public Officials – Salahuddin Mughal and Muhammad Irfan; (ii) Private Beneficiaries – Zafar Iqbal, Ghulam Mustafa Shaikh, and Muhammad Anis and (iii) Bank Officials – Madad Ali Shaikh, Syed Mohammad Waseem, and the deceased Muhammad Shoaib Wasti. In order to substantiate its case against them, the prosecution examined a total of 33 witnesses and brought on record

documentary evidence ranging from Exh.13/1 to Exh.81/1. At the outset, the first set of appellants/accused, namely the public servants, shall be discussed.

8. We do not find any merit in the contention of the learned Special Prosecutor for NAB that the appellants Salahuddin Mughal and Muhammad Irfan, being public servants, were involved in the embezzlement of funds as material record is unsupported by either direct or indirect evidence. PW-1 Syed Matloob Ahmed (Exh.13) categorically deposed that appellant Salahuddin Mughal, in his capacity as Secretary of SWWB, merely wrote letters to factory owners seeking the names of workers who had applied for grant-in-aid. In response, SWWB received reply with recommendation of names of workers from 80 owners out of 193 private industries. The list was subsequently vetted and verified by a Scrutiny Committee comprising: (1) Muhammad Sharif, representative of the Workers Union; (2) M. Ameen Khatri, representative of the Private Industrial Sector; (3) Deputy Secretary, Labour Department, Government of Sindh; and (4) Secretary of the Sindh Workers Local Welfare Board. PW-1 further admitted that balloting was held on 13.06.2001 in the office of the Chairman SWWB, where 1575 applications were accepted as eligible workers to receive grant-in-aid of Rs.20,000/- each. He produced the balloting record at Exh.13/3 and confirmed that cheques were signed and distributed by Anwar Ausaf, Director Finance of SWWB, during a formal ceremony. His testimony establishes that both appellants acted transparently, and nothing incriminating has been brought against them. Similarly, PW-2 Syed Khamis Abbas (Exh.14), PW-3 Muhabbat Hussain (Exh.16), PW-4 Muhammad Saleem (Exh.21), PW-5 Rafiuddin Ahmed (Exh.24), PW-7

Muhammad Ameen Khatri (Exh.41), and PW-21 Abdul Kareem Khan (Exh.63) did not depose anything adverse against the appellants. On the contrary, they confirmed that cheques were duly paid to workers. PW-27 Muhammad Aslam (Exh.73), produced by the prosecution, clearly exonerated the appellants. He was declared hostile and cross-examined, yet maintained that the Secretary SWWB, Salahuddin Mughal, had no role in the alleged offence. He confirmed that the list of workers forwarded by the Private Industrial Sector was placed before the Scrutiny Committee, and after clearance, the list was subjected to balloting in the office of the Chairman SWWB. PW-28 Anwar Ausaf (Exh.75), Deputy Director Finance of SWWB, corroborated this position. He confirmed that he himself signed and distributed the cheques after receiving the list of successful candidates from the balloting process (Exh.13/3).

9. In view of the foregoing discussion, we do not find any direct or indirect evidence against the two public officials, namely Salahuddin Mughal and Muhammad Irfan, to hold them accountable for siphoning off funds through an impersonated workers' list. The NAB prosecution has failed to produce any document or letter signed or approved by these appellants, nor any minutes of meeting evidencing their involvement in approving the names of fake or impersonated workers who allegedly embezzled the workers' fund. On the contrary, the record demonstrates that the appellants acted upon the recommendations of the private industrial sector, which were duly scrutinized by the Committee members, as disclosed by PW-1. The Scrutiny Committee comprised representatives of private industry owners, the Deputy Secretary of the Labour Department, a representative of the Workers' Union, and the Secretary of the Sindh Workers Local Welfare Board. Prior to the replacement of the



workers' list, clerks Syed Anis Ahmed and Farhat Majeed scrutinized and consolidated the applications, which were subsequently forwarded by Muhammad Irfan, Welfare Officer of SWWB (appellant). A perusal of the record further reveals that neither the public officials who initially scrutinized and consolidated the list of workers, nor the Scrutiny Committee which finally prepared the list, have been charged by the NAB prosecution. Nor have they been produced as witnesses to substantiate the allegation that the appellants Salahuddin Mughal and Muhammad Irfan were responsible for preparing the list of 188 workers. Consequently, there is no material to support the claim that these appellants prepared a fake or fabricated list through impersonated persons and thereby fraudulently siphoned off public money or that Appellants have obtained any wrongful financial gains. Therefore, we do not find any basis to uphold conviction to the extent of these two Appellants Salahuddin Mughal and Muhammad Irfan and hold that the impugned Judgment is unsustainable to their extent.

10. Now moving towards the second set of Appellants (Gulam Mustufa Shaikh, Mohammad Anis and Zafar Iqbal) who are private parties and beneficiary of embezzlement amount. We have already held that there is no direct or indirect evidence through documentary or oral testimony that may hold accountable the public official. Conversely, we have found that appellants Ghulam Mustafa Shaikh, Zafar Iqbal and Muhammad Anis have received the said embezzled fund, which has been proved by the NAB prosecution beyond any reasonable doubt that has been included by the bank officials. We have noted that there is direct evidence with regard to the impersonated list of 188 workers in the light of evidence of PW-6, PW-9 to PW-26, except PW-22 that Rs.20,000/- grant in aid has

been paid to impersonated workers, whose names and signatures have been included in Exh.75/1. The PW-6 Sajjad Ahmed (Exh.26), representative of Pearl Confectionery (Pvt.) Ltd., stated that a list of 19 workers was supplied by SWWB for Jahez fund, of which only two belonged to his factory while 17 were unrelated. Likewise, PWs 9 to 26 (except PW-22) confirmed that they had not received any grant-in-aid. On the contrary the evidence produced has confirmed that amount was credited in the accounts of these Appellants. Therefore, the NAB prosecution has proved that the amount of Rs.20,000/- per worker was not received to the extent of PWs 9 to 26, except PW-22 but credited to the accounts of these Appellants. Therefore, we hold that the impugned judgment to the extent of appellants in Cr. Acctt. Appeals Nos.8 and 9 of 2018 is sustainable. Appellant Ghulam Mustafa Shaikh and Muhammad Anis have embezzled the fund, which has been credited into their accounts and they are the beneficiaries of it, therefore, the conviction against them is maintained with modification by imposing a sentence of Fine Rs.31,00,000/- to be paid by the three appellants to the State Bank of Pakistan/Treasury on or before 22<sup>nd</sup> December 2025 and in case of default thereof, they would have to undergo R.I. for two (02) years.

11. Now moving to third sets of Appellants (Bankers). The relevant material witnesses and their evidence to prove the prosecution case are PW-29 Mubeen-ul-Moin at Exh.76, PW-11 Syed Habib-ul-Hasan Najmi at Exh.47 and PW-30 Ikhtlaq Ahmed at Exh.77. PW-29 deposed that ***“Mr. Farooq Mehmood was Area Manager at the relevant time. He was directed to hold inquiry in the matter. He conducted the inquiry. I was also directed to associate him in the inquiry and I joined him accordingly. I helped him to sort out the***

papers only since the inquiry was already completed by him. After inquiry a joint inquiry report was submitted to the department. I produce such inquiry report at Exh.76/1 which is same, correct and bears my signature.” In his cross-examination, he has admitted that “It is correct to suggest that according to inquiry report accused S.M. Waseem was godown keeper and Ex-coordinator and not clearing Incharge. It is correct to suggest that according to inquiry report Shoaib Ahmed Wasti was clearing incharge in the branch at that time.....It is correct to suggest that Habibullah Hasan Najmi was also held responsible in the interim inquiry report. It is correct to suggest that he is not accused in this case. ....the function of sales manager is to perform outdoor duties. It is correct to suggest that accounts in a bank are opened through Manager Operations of the concerned branch. It is correct to suggest that accounts referred in the interim inquiry report were opened much before the posting of accused Madad Ali Sheikh in UBL, Landhi Industrial Area Branch.”

12. PW-29 has not deposed against the appellants Madad Ali Shaikh or Syed Mohammad Waseem. On the contrary, his testimony exonerates appellant Madad Ali Shaikh while attributing responsibility to Syed Habib-ul-Hassan, who was Manager Operations at the relevant time and acted as co-signatory with another bank officer whereby embezzled amount was credited into the accounts of private persons. Despite this, NAB produced Syed Habib-ul-Hassan as PW-11 instead of joining him in the investigation in light of the statement of PW-29 and the UBL Bank Internal Inquiry Report (Exh.76/1). Consequently, the evidence of PW-11 is inadmissible, untrustworthy, and therefore discarded. The remaining evidence of PW-30 Akhlaq Ahmed is merely formal and

does not implicate appellants Madad Ali Shaikh, Syed Mohammad Waseem, or the deceased Muhammad Shoaib Wasti.

13. In view of the oral testimony of PW-29, it is clear that neither Madad Ali Shaikh nor Syed Mohammad Waseem were entrusted with any responsibility relating to the processing of cheques or crediting amounts into the accounts of appellants Ghulam Mustafa Shaikh, Muhammad Anis, or Zafar Iqbal. The prosecution has also failed to verify specimen signatures against questioned documents concerning cheque processing or credit advice in favour of private persons in order to prove the signature through oral testimony of bankers who were familiar with the signature of Appellants Madad Ali Shaikh or Syed Muhammad Waseem or through some expert. Although PW-11 was produced, no direct or indirect evidence has been brought on record to connect the appellants with the commission of the offence regarding the clearing of cross cheques issued by SWWB in favour of workers rather he has admitted in his evidence that he has also signed the cheques and credit advice. Furthermore, the record establishes that the initial inquiry report (Exh.76/1) detected 142 cheques credited from NBP, Saddar Branch into the accounts of appellants Ghulam Mustafa Shaikh, Mehboob Kiryana Store, Zafar Iqbal, Muhammad Anis, and Haleem Gul. However, except for appellants Ghulam Mustafa Shaikh, Zafar Iqbal, and Muhammad Anis, the remaining beneficiaries were not joined in the investigation, nor were the bank officials of NBP, Saddar Branch examined or charged. Furthermore, Javed Hussain, OG-III, UBL, who signed vouchers was not made a witness by NAB. In absence of any material record signed by appellants and its proof other than inquiry report produced at Exh.76/1 by PW-29, the case against these bankers remains doubtful. The steadily

commandment of law necessitate unremitting attention for conviction that it must be based on un-impeachable evidence and certainty of guilt and where any doubt emerges would indispensably favor the Accused. The Hon'ble Supreme Court of Pakistan has ruled down in several cases that it does not need to be a plethora of circumstances raising doubt—a single event that creates reasonable doubt in the mind of a prudent person regarding an accused's guilt would entitle him acquittal as a matter of right and not as clemency or grace. Reliance can be placed on *“Tariq Pervez v. The State”, (1995 SCMR 1345)*, *“Riaz Masih alias Mithoo v. The State”, (1995 SCMR 1730)*, *“Muhammad Akram v. The State”, (2009 SCMR 230)*, *“Hashim Qasim and another v. The State”, (2017 SCMR 986)*, *“Ikramullah Vs. The State”, (2015 SCMR 1002)*, *“The STATE through Regional Director ANF V. IMAM BAKHSH and others (2018 SCMR 2039)”*, and *“KHAIR-UL-BASHAR V. The STATE”, (2019 SCMR 930)*. It is trite law that single dent in the case of prosecution is sufficient for acquittal as held in cases *“Rehmatullah vs. The State” (2024 SCMR 1782)*; *“Muhammad Mansha versus The State” (2018 SCMR 772)*, *“Abdul Jabbar and another versus The State” (2019 SCMR 129)*, *“Mst. Asia Bibi versus The State and others” Crl. Appeal No.40132/2023 8 (PLD 2019 SC 64)* and *“Amir Muhammad Khan versus The State” (2023 SCMR 566)*. Accordingly, we extend the benefit of doubt to appellants Madad Ali Shaikh and Syed Muhammad Waseem.

14. The case at hand is glaringly noticeable for the inexcusable and susceptible nature of the evidence adduced by the prosecution, which fails to meet the legal standards required under Article 2(iv) and Article 117 of the Qanun-e-Shahadat Order, 1984. Accordingly, Criminal Accountability Appeals No.06, 07, 10, and 11 of 2018 are

allowed, and the impugned judgment is set aside to that extent. Conversely, Criminal Accountability Appeals No.08 and 09 of 2018 are dismissed and conviction is maintained with modification by imposing a sentence of Fine at Rs.31,00,000/- to be paid by the three appellants in the manner that appellant Ghulam Mustafa Shaikh shall pay fine amount of Rs.5,60,000/-, Appellant Muhammad Anis shall pay fine amount of Rs.14,00,000/- and Appellant Zafar Iqbal shall pay fine amount of Rs.11,40,000/- to the State Bank of Pakistan / Treasury on or before 22<sup>nd</sup> December 2025. In case of failure to deposit the respective fine amount by any appellant, such appellant shall undergo Rigorous Imprisonment for a period of two (02) years. The Trial Court is directed to issue warrants of arrest and imprisonment in case the fine amount is not deposited by 22.12.2025.

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