

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Acquittal Appeal No. 655 of 2021

Before:

Mr. Justice Zafar Ahmed Rajput
Chief Justice
Justice Ms. Tasneem Sultana

Appellant : Syed Waris-ul-Haq, through Mr. Shaukat Hayat, Advocate.

Respondents No.1 to 7 : Syed Najam-ul-Amin & others,
Nemo

Respondent No.8 : The State, through Mr. Muhammad Shah DAG.

Date of hearing : 23.02.2026.

Date of judgment : 02.06.2026

J U D G M E N T

TASNEEM SULTANA – J:- Through the instant Criminal Acquittal Appeal, the appellant/complainant Syed Waris-ul-Haq has assailed the judgment dated 30.10.2021 passed by the learned Special Court (Offences in Banks), Sindh at Karachi, in Direct Complaint No.17 of 2016, arising out of offences punishable under Sections 409, 420, 467, 468, 471, 109 and 34 PPC, whereby the private respondents/accused were acquitted of the charge by extending them benefit of doubt.

2. The brief facts of the prosecution case are that the appellant, a Pakistani national settled in the United States of America since 1988, maintained Account No.0042-560522-121 in KASB Bank Limited, Karimabad Branch, Karachi, which according to him was exclusively operated by him. In November 2009, he transferred approximately Rs.49,500,000/- from his account maintained in My Bank, Gulshan-e-Iqbal Branch, Karachi into the aforesaid account. It was alleged that during the appellant's stay in USA, respondent Mst. Sultana Waris, being his wife, in connivance with respondent Syed Saim Hassan, the then Manager of KASB Bank Karimabad Branch, and other respondents, dishonestly withdrew huge amounts from the

appellant's account through forged cheques bearing forged signatures of the appellant and subsequently transferred the amounts into different accounts maintained in KASB Bank, Soneri Bank, Bank Al-Habib Limited and Burj Bank Limited. The appellant further alleged that upon his arrival in Pakistan on 10.03.2015, he visited KASB Bank Karimabad Branch and came to know that only Rs.634.59 remained in his account, whereafter he obtained copies of disputed cheques amounting to Rs.20,00,000/-, Rs.4,74,52,575/- and Rs.2,70,000/- respectively, which according to him, did not bear his genuine signatures. Consequently, after making complaints before FIA and local police, the appellant instituted a direct complaint.

3. After conducting preliminary enquiry, the learned trial Court took cognizance vide order dated 22.07.2016 and summoned the respondents to face trial. Thereafter, bailable warrants were issued against the nominated accused persons, pursuant where to, all the respondents appeared before the learned trial Court and contested the complaint, except Mst. Sultana Waris who could not be served and, after completion of codal formalities under Sections 87 and 88 Cr.P.C., she was declared a proclaimed offender vide order dated 17.02.2017. Subsequently, formal charge was framed against the respondents, to which they pleaded not guilty and claimed trial.

4. In support of the complaint, the appellant examined himself as PW-1 at Exh.6 and produced documentary evidence Exh.6/1 to Exh.6/10. He further examined PW-2 Syed Ali Khurshed Alam, PW-3 Maqsood Ali, PW-4 Syed Kumail Abbas, PW-5 Muhammad Waseem Iqbal, PW-6 Liaquat Ali, PW-7 Rehmatullah Domki, PW-8 Masroor Haider and lastly PW-9 Ghulam Abbas Jafri, handwriting expert, who produced relevant banking record, account opening forms, account statements, inquiry documents and handwriting expert's report along with annexures. Thereafter, the appellant closed his side vide statement at Exh.21. During trial, accused Syed Saim Hassan absconded and was declared proclaimed offender vide order dated 14.12.2018. Statements of accused persons under Section 342 Cr.P.C. were recorded at Exh.22 to Exh.27. Subsequently, on an application moved by the appellant under Section 540 Cr.P.C., CW-1 Niaz Akbar, handwriting expert, was examined at Exh.29, who produced his report along with relevant documents. Thereafter, the appellant again closed his side vide statement at Exh.30. Statements of the respondents, except Mst. Sultana Waris under Section 342 Cr.P.C. were thereafter recorded at Exh.31 to Exh.36, wherein they denied the allegations, professed innocence and neither examined themselves on oath nor produced any witness in defence.

5. Learned counsel for the appellant/complainant contended that the impugned judgment is contrary to law and facts of the case and the learned Trial Court failed to properly appreciate the overwhelming documentary and forensic evidence available

on record. According to him, the prosecution successfully established that huge amounts were dishonestly withdrawn from the account of appellant Syed Waris-ul-Haq through disputed cheques bearing forged signatures and thereafter transferred into various accounts maintained by the accused persons. He argued that the banking trail regarding movement of funds stood conclusively proved through the evidence of concerned bank officials and the documentary record produced by them. He further contended that both the official forensic report issued by the Forensic Division Sindh as well as the report of private handwriting expert Ghulam Abbas Jafri conclusively established that the disputed signatures appearing upon the cheques were forged and did not belong to the appellant. He added that cumulative effect of banking evidence, forensic reports and subsequent transfer of disputed amounts into accounts maintained by accused persons clearly established active connivance and criminal conspiracy amongst the respondents, but the learned Trial Court failed to appreciate such material evidence in its proper perspective while acquitting them. He lastly contended that since the impugned judgment suffers from misreading and non-reading of the evidence, it is liable to be set aside.

6. Learned D.A.G. supported the impugned judgment and maintained that the prosecution had failed to prove its case against the respondents beyond reasonable doubt. He submitted that the learned Trial Court had properly appreciated the evidence available on record and rightly extended benefit of doubt to the respondents. He therefore prayed for dismissal of the instant Criminal Acquittal Appeal.

7. Heard. Record perused.

8. Perusal of the record reflects that the allegations against the respondents primarily relate to withdrawal of amounts from the account of appellant Syed Waris-ul-Haq through disputed cheques and subsequent transfer of such amounts into accounts maintained by the respondents. In support of the said allegations, the prosecution relied upon banking record, account statements and forensic reports. The banking record produced through officials of KASB Bank Limited, Soneri Bank Limited, Bank Al-Habib Limited and Burj Bank Limited, as well as the forensic reports relied upon by the prosecution, support the case to the extent that the disputed signatures appearing upon the cheques do not tally with the admitted signatures of appellant Syed Waris-ul-Haq and were opined to be forged. However, despite the aforesaid circumstances, no direct evidence was produced to establish as to who had actually forged the disputed signatures appearing upon the cheques in question. Admittedly, no witness deposed having seen any respondent forging signatures or preparing disputed cheques. Likewise, no independent evidence was brought on record to establish that the co-respondents possessed prior knowledge regarding alleged forgery of the disputed cheques. The case against respondents, other than

respondent Mst. Sultana Waris, substantially rests upon subsequent transfer of amounts into accounts maintained by them. Mere receipt or transfer of amounts through banking channels, without independent corroborative evidence, was not sufficient to conclusively establish the offences alleged against them.

9. It is also an admitted position that serious matrimonial and domestic disputes existed between appellant and respondent Mst. Sultana Waris and various proceedings between the parties were also pending. In such circumstances, the prosecution evidence required cautious scrutiny. Although the forensic reports relied upon by the prosecution support the case to the extent that the disputed signatures appearing upon the cheques do not tally with the admitted signatures of the appellant, nevertheless neither report identifies the actual author thereof. Perusal of the record further reflects that the disputed signatures were never compared with admitted or specimen signatures/handwriting of the respondents so as to scientifically connect any of them with the alleged forgery. Therefore, while suspicious circumstances may have surfaced from the prosecution evidence, yet it is settled law that suspicion, however grave may be, cannot substitute legal proof.

10. The learned Trial Court, after discussing the entire evidence in considerable detail, concluded that the prosecution failed to establish the guilt of the respondents beyond reasonable doubt. Upon reappraisal of the evidence, we do not find that the conclusions drawn by the learned Trial Court suffer from any material illegality, misreading or non-reading of evidence warranting interference by this Court in exercise of appellate jurisdiction against acquittal. The Hon'ble Supreme Court of Pakistan in the case of *Muhammad Riaz versus Khurram Shehzad and another* (2024 SCMR 51) has held as under:-

“10. The aforesaid set of circumstances creates misgivings and suspicions regarding the presence of the prosecution witnesses at the scene of the crime, and the discrepancies and defects in the investigation and the prosecution case pointed out by the learned High Court in the impugned judgment also colors the case in doubt and improbability. Therefore, the learned High Court rightly held that the prosecution badly failed to substantiate the case against the respondent No.1, and the learned Trial Court was not justified in convicting him on the strength of untrustworthy or uncorroborated evidence which was full of material contradictions, especially contradictions in the ocular and medical evidence. It is a well-settled exposition of law that in an appeal against acquittal, the Court would not ordinarily interfere and would instead give due weight and consideration to

the findings of the Court acquitting the accused which carries a double presumption of innocence, i.e. the initial presumption that an accused is innocent until found guilty, which is then fortified by a second presumption once the Court below confirms the assumption of innocence, which cannot be displaced lightly.”

11. It is well settled by now that the scope of appeal against acquittal is very narrow and there exists a double presumption of innocence in favour of the accused and the Courts ordinarily do not interfere with the impugned judgment unless the same is shown to be perverse, arbitrary, foolish, artificial, speculative or ridiculous, as held by the Honourable Supreme Court in the case of *State versus Abdul Khaliq and others* (PLD 2011 SC 554), wherein it has been held as under:-

“From the ratio of all the above pronouncements and those cited by the learned counsel for the parties, it can be deduced that the scope of interference in appeal against acquittal is most narrow and limited because in an acquittal the presumption of innocence is significantly added to the cardinal rule of criminal jurisprudence, that an accused shall be presumed to be innocent until proved guilty; in other words, the presumption of innocence is doubled. The courts shall be very slow in interfering with such an acquittal judgment, unless it is shown to be perverse, passed in gross violation of law, suffering from the errors of grave misreading or non-reading of the evidence, such judgments should not be lightly interfered and heavy burden lies on the prosecution to rebut the presumption of innocence which the accused has earned and attained on account of his acquittal. It has been categorically held in a plethora of judgments that interference in a judgment of acquittal is rare and the prosecution must show that there are glaring errors of law and fact committed by the Court in arriving at the decision, which would result into grave miscarriage of justice; the acquittal judgment is perfunctory or wholly artificial or a shocking conclusion has been drawn. Moreover, in number of dictums of this Court, it has been categorically laid down that such judgment should not be interjected until the findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous.”

12. Applying the above principles to the facts of the present case, we find that the view adopted by the learned Trial Court is a possible and plausible view emerging from the evidence available on record. The findings recorded by the learned Trial

Court do not suffer from such perversity, arbitrariness, gross illegality or misreading or non-reading of evidence as would justify interference by this Court in exercise of appellate jurisdiction against acquittal. Consequently, this Criminal Acquittal Appeal is dismissed.

Chief Justice

J U D G E

Nadeem Qureshi *PA*