

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Criminal Revision Application No. S- 132 of 2024.

Applicant : Jhaman Das s/o Sawai Mal
through Mr. Vasand Thari, Advocate.

The State : Through Mr. Neel Parkash, D.P.G.

Complainant : Leela Ram s/o Hemoon Malhi
Through Mr. Jaidev Sharma advocate.

Date of hearing : 01.10.2025.

Date of order : 01.10.2025.

ORDER

AMJAD ALI SAHITO-J.:- Through the instant Criminal Revision Application, the applicant, Jhaman Das, seeks to impugn the legality, propriety, and correctness of the judgment dated 27-03-2024, rendered by the learned Civil Judge and Judicial Magistrate-I, Umerkot, in Criminal Case No. 31 of 2023 titled *State v. Jhamandas*, arising out of FIR No. 141 of 2022 registered at Police Station Umerkot City under Section 489-F, Pakistan Penal Code (PPC). Vide the impugned judgment, the applicant was convicted under Section 489-F, PPC and sentenced to undergo simple imprisonment for a term of three (03) years, and to pay fine of Rs.30,000/= and in case of default thereof to suffer S.I for two weeks more; however benefit of Section 382-B of the Code of Criminal Procedure, 1898 (Cr.P.C.) was awarded to him. The said conviction and sentence were subsequently upheld by the learned Additional Sessions Judge-I, Umerkot, vide judgment dated 16-10-2024 in Criminal Appeal No. 04 of 2024.

2. Briefly the facts of the prosecution case, as narrated in the F.I.R, lodged on 11-11-2023, by complainant Leela Ram at P.S Umerkot City are that he has a confectionary shop in Shahi Bazar, Umerkot city. His brother in law, Jhamandas son of Sawai Mal (applicant/accused), has garments shop in Samad Market, Umerkot. On 01-07-2022, at evening, he alongwith Gopal Das Malhi and Jagdesh alias Jagu Malhi were present at his shop,

when at about 07.00 p.m, applicant/ accused Jhamandas arrived at his shop and requested him to lend him Rs. 1,10,00,000/= for 10 to 12 days and promised to provide Cheque of his own account. Then after collecting said amount the complainant handed over the same to the applicant/accused in presence of aforementioned witnesses for which applicant/ accused handed over Cheque No.D-72956164 dated 13-07-2022 of his account No.0102181818 of amount of Rs. 1,10,00,000/= of Meezan Bank Umerkot Branch to the complainant. Thereafter, the complainant went to Meezan Bank Umerkot on 30-08-2022 for encashment of cheque, where Manager of the bank, after checking the account, issued the Cheque Return Memo due to the reason of insufficient fund and payment stop. After that, the complainant again went to the bank on 31-08-2022 and 01-09-2022 where, the bank again returned the Cheque with the same reasons. Upon such, complainant went to the applicant/ accused and asked him for return of his amount, who denied to return money and asked the complainant to do whatever he could. Thereafter, the complainant appeared at P.S and lodged the F.I.R.

3. After completion of the usual investigation, the I.O submitted a police report under section 173 Cr.P.C before the learned trial court. After supplying copies of necessary documents to the applicant/ accused, charge was framed against him, to which he pleaded not guilty and claimed trial.

4. In order to substantiate its case, the prosecution examined complainant Leela Ram at Ex-03, who produced Cheque, three cheque return memos issued by bank authorities and F.I.R at Ex.3/A to 3/E. P.W-02 Jagdesh at Ex.04. Witness cum mashir Gopal Das at Ex.05, who produced memo of inspection of place of incident and memo of inspection of Meezan bank at Ex.05/A and 5/B. P.W-4 I.O SIP Bahadur was examined at Ex: 06, who produced roznamcha entry No.21, 10 and 17, letter to Manager Meezan bank for verification of account and verification letter of account of accused Jhaman Das issued by Branch Manager

Meezan Bank at Ex:06/A to Ex:06/D. P.W-05 Branch Manager Meezan Bank was examined at Ex:07. Thereafter, learned A.D.P.P closed the side of prosecution evidence vide statement as Ex:08. After closing of evidence of the prosecution, the statement of the accused under section 342 Cr.P.C was recorded, wherein he denied the prosecution allegations and claimed his innocence. However, neither he examined himself on oath nor lead evidence in his defence.

5. Upon thorough evaluation of the evidence available on record, the learned Trial Court convicted and sentenced the applicant as per the judgment dated 27-03-2024. The said conviction was challenged by the applicant through Criminal Appeal No. 04/2024. However, after hearing arguments from both sides and carefully reappraising the findings of the Trial Court, the learned Appellate Court upheld the conviction and dismissed the appeal vide judgment dated 16.10.2024.

6. Learned counsel for the applicant submitted that the impugned judgments passed by the two courts below are the result of non-reading and misreading of the evidence available on record. It was argued that both the courts below failed to consider that the cheque in question was not presented before the concerned Bank on the date mentioned thereon, but rather was presented after an inordinate delay of more than one month. It was further contended that no evidence has been adduced to establish any business relationship between the parties. The learned counsel pointed out that the testimony of the Bank Manager was ignored, which categorically shows that the account of the applicant had been closed and that payment was stopped. He further submitted that the courts below also failed to appreciate the defence plea that the cheques were stolen by the complainant's son and that the applicant never issued such cheque to the complainant. Moreover, the FIR was lodged with an unexplained delay of four months and eleven days. It was also urged that there exist several material contradictions in the statements of prosecution witnesses, which were not taken into

account by the courts below. Lastly, it was argued that the evidence led by the prosecution was insufficient to sustain the conviction, and therefore, the concurrent findings recorded by the learned courts below are liable to be set aside.

7. Conversely, the learned Deputy Prosecutor General, duly assisted by the learned counsel for the complainant, opposed the revision petition and supported the concurrent findings of both the trial and appellate courts.

8. I have heard the learned counsel for the respective parties and, with their assistance, have carefully examined the record available on file.

9. A plain reading of Sections 435 and 439 of the Code of Criminal Procedure, 1898, makes it evident that the High Court is empowered to call for the record of any proceedings from subordinate criminal courts in order to examine the correctness, legality, or propriety of any finding, sentence, or order passed therein. Consequently, while invoking revisional jurisdiction under the aforesaid provisions, it is incumbent upon the applicant to demonstrate that the impugned judgment suffers from error, illegality, or impropriety, and that the findings recorded by the subordinate courts are not in consonance with law.

10. Upon a bare perusal of the judgments rendered by the learned Trial Court as well as the learned Appellate Court, it transpires that the findings recorded by both the forums are duly supported by cogent reasoning and are based upon a proper appraisal of the evidence available on record.

11. I have carefully examined the record as well as the evidence adduced before the learned Trial Court, which reflects that the prosecution's case against the applicant/accused, Jhaman Das, is that he obtained a loan of Rs. 1,10,00,000/- from the complainant, his brother-in-law, for a period of 10 to 12 days, and in order to repay the said amount, he issued a cheque of Rs. 1,10,00,000/- in favour of the complainant in the presence of

witnesses. The said cheque, upon presentation for encashment, was dishonoured on three occasions. Such dishonour squarely attracts the ingredients of Section 489-F, Pakistan Penal Code. It is further noted that the applicant/accused did not dispute the genuineness of his signatures on the cheque in question.

12. In his statement recorded under Section 342, Code of Criminal Procedure, the applicant/accused admitted the existence of a business relationship between himself and the complainant's son. However, during the cross-examination of the complainant, his stance was that his cheque book had been misplaced and the complainant misused his cheque. In contrast, ground No. 11 of the instant revision application asserts that the complainant's son had stolen the cheques of the applicant. Upon being confronted, whether any NC report was lodged at the concerned police station or any application was moved before the competent authority regarding the alleged misplacement or theft of his cheque book, learned counsel for the applicant conceded in the negative. The applicant also failed to repay the loan amount to the complainant. His admission of business dealings with the complainant's son, coupled with his failure to furnish any plausible explanation or proof regarding the alleged misplacement/theft of the cheque book during the proceedings, further strengthens and corroborates the prosecution's case.

13. In view of the foregoing, it is manifest that the prosecution has successfully proved its case against the applicant. The learned counsel for the applicant has not been able to point out any material illegality or substantial irregularity committed either by the learned Trial Court or the learned Appellate Court in rendering the impugned judgments. Both judgments are based on proper appreciation of evidence and do not call for interference by this Court.

14. Accordingly, the conviction and sentence awarded to the applicant/accused, Jhaman Das, by the learned Trial Court and maintained by the learned Appellate Court, are hereby upheld.

Consequently, the instant Criminal Revision Application, being devoid of merit, was **dismissed** vide short order dated 01.10.2025, whereby the applicant was taken into custody and remanded to jail to serve out the remainder of his sentence.

15. These are the reasons for the short order dated 01.10.2025.

JUDGE

Saleem