

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No.544 of 2018

Date	Order with signature of Judge
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For hearing of main case

22.03.2019

None present for the appellant.
Ms. Seema Zaidi, DPG.

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1. This Crl. Acq. Appeal is directed against the judgment dated **25.09.2018** passed by the learned VIIth Civil Judge/Judicial Magistrate East, Karachi in Criminal Case No.362/2017 whereby the trial Court has acquitted Respondent No.2 by extending him benefit of doubt.

2. Brief facts of the prosecution case are that the Complainant purchased one car bearing registration No.BFM-720, from accused Saqib Aziz against total sale consideration amount of Rs.16,5000,00/-. The total amount was paid and the accused handed over the car and its document to the Complainant. When the complainant checked its document which were not correct and he asked from the accused that the document of the car. The accused told him to return the car and receive back the amount. The accused had issued one cheque No.2293216065 of amount of Rs.15,000,00/- to him which was bounced on presentation. He contacted with the accused but initially he avoided to pay his amount on one pretext and another thereafter refused to return his amount, hence lodged FIR against the accused.

3. I have heard the learned DPG and perused the record.

4. The perusal of the impugned order shows that the learned trial Court has rightly observed that:-

“.....Thus, keeping in view the fact and circumstances of the instant case as well as ingredients of provision of Section 489-F, the Prosecution has failed to establish that the cheque was issued by the accused for repayment or fulfillment of an obligation. The Prosecution was required to prove all ingredients of the offence but it failed to bring sufficient evidence on record to prove that accused was in fact under an obligation to return the whole amount instead of to clear the documents if it were found incomplete or unclear hence the issuance of the cheque with dishonest intention also remained doubtful and not proved by credible evidence.....”

5. In view of the above, no case is made for interference in the impugned judgment by this Court, therefore, this Crl. Acq. Appeal is dismissed.

JUDGE