

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No.169 of 2014

Date	Order with signature of Judge
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1. For order on office objection a/w reply as at flag 'A'
2. For order on M.A No.4951/2014 (Ex/A)
3. For hearing of Main Case

03.04.2019

Mr. Ameer Bux Maitlo, advocate for the appellants.
Khawaja Muhammad Azeem, advocate for Respondent No.1.
Ms. Rahat Ahsan, Addl. P.G.

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1. This Crl. Acq. Appeal is directed against the judgment dated **28.04.2014** passed by the learned IIIrd Addl. Sessions Judge (West) Karachi in Criminal Appeal **No.03/2014** whereby the trial Court has acquitted Respondents No.1 by extending them benefit of doubt.

2. Brief facts of the case are that the complainant Riaz Ahmed lodged this FIR to the effect that the theft took place from containers carrying copper meant for their clearing / export purposes. The approximate value of such goods was Rs.89,50,000/-. Transportation services were provided by New Al Qasim Cargo. Inspection of containers was made in presence of owners of such cargo service namely accused Muhammad Qasim and Naseem Butt. In such containers lot of dust was found. Such responsibility of loss owed to accused Muhammad Qasim and Naeem Butt. Such writing was also made in respect of losses and cheque was given by them in respect of such claim. When such cheque was deposited in their account it was bounced hence this FIR.

3. Learned trial Court after hearing the parties, acquitted / Respondents No.1 by judgment **28.4.2014**. Therefore, the appellant / complainant has filed the instant Criminal Acquittal Appeal.

4. I have heard the learned counsel for the parties perused the record.

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

“.....It is also important to point out that this cheque was signed by accused in black Ink whereas columns of same cheque were filled in blue Ink in different handwriting and as per bank report this cheque was returned due to stop payment of account holder it means the cheque was not return for want of short amount. It means there was no dishonesty at the part of applicant/accused. It has already discussed above that containers were arranged by M/s. Naeem Brother goods of Lahore whose owner Mr. Hydar but who already reported to P.S Shera Kot Lahore in respect of same vehicle and containers therefore, when complainant involved the present applicant/accused namely Qasim that he changed the cargo by filling the mud in containers shows malafide of complainant. It is also important to discuss here that trial court had already acquitted to co-accused Naeem Ahmed Butt. The complainant and his witnesses applied pick and choose method before trial court as they exonerate co-accused Naeem Ahmed Butt and deposed against only present accused Qasim. Though containers were brought to Karachi by M/s. Naeem Brothers as per their own civil Suit No.01/13. It is also important to point out here that when complainant party arrived in Karachi at Port Qasim containers were in sealed condition it means the mud was filled in containers before seal. Otherwise seal should have been already broken but complainant party again and again taken view that it was defendant sealed by them and mud was found and not copper cargo.....

6. In view of the above, when neither the figure in the cheque was filled by the accused nor any liability is shown as outstanding, the trial Court was justified in acquitting Respondent No.1, therefore, this Crl. Acq. Appeal is dismissed alongwith listed application.

JUDGE

