

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Acq. Appeal No.239 of 2018

Date	Order with signature of Judge
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1. For order's on office objection as at flag 'A'.
2. For hearing of main case.

19.04.2019

Mr. Ahmed Ali Ghumro, advocate for the appellant.
Ms. Seema Zaidi, DPG for the State.

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NAZAR AKBAR,J:- This Crl. Acq. Appeal is directed against the judgment dated **20.02.2018** passed by XXIIIth Civil Judge & Judicial Magistrate (South) Karachi in Criminal **Case No.3396/2011** whereby the trial Court has acquitted Respondent No.1 by extending him benefit of doubt.

2. Brief facts of the case as per FIR lodged by complainant are that above named accused dishonestly issued cheque No.9852738 for sum of Rs.3,75,000/- and another cheque No.9852745 for sum of Rs.1,87,000/- to complainant namely Umair Thara son of Mehmood Akhter Thara of his account towards re-payment of loan or fulfillment of an obligation which were dishonored on presentation at concerned bank, hence lodged instant FIR No.504/2011 under Section 489-F, 420, PPC at Police Station Preedy, Hence this case.

3. I have heard the learned counsel for the appellant and learned DPG for the State and perused the record.

4. The perusal of the impugned order shows that the evidence required for bringing the case within the ambit of Section 489-F of the PPC was not available. Learned counsel for the appellant/complainant was directed to satisfy the Court through evidence that the ingredients of an offence under **Section 489-F** was

proved. Whether the cheque was issued towards payment of loan or “fulfillment of an obligation” by the respondent? In this context the observations of the trial Court in the impugned judgment are well reasoned which are reproduced below:-

.....“there is no denying factor that the accused Sayed Zohaib Hussain son of Sayed Hifizat Hussain Shah dishonestly issued cheque No.9852738 for sum of Rs.3,75,000/- and another cheque No.9852745 for sum of Rs.1,87,000/- to complainant namely Umair Thara son of Mehmood Akhter Thara of his account towards re-payment of loan or fulfillment of an obligation which were dishonoured on presentation at concerned bank. In this regard no satisfactory documents have been furnished by complainant or any witness to prove its case. Mere issuance of cheque which is in the name of N.J Auto Industries Private Limited cannot constitute an offence under section 489-F PPC and same was submitted by the complainant namely Umair Thara in his account quite changing aspect related to section 489-F, PPC. Evidence of prosecution witnesses could not prove its case as described in charge as discussed above as the alleged cheques were issued in the name of N.J Auto Company not in the name of complainant”.....

The above observation of the trial Court based on evidence was enough for acquittal of respondent No.1. Since FIR was registered by incompetent person, who was not authorized to lodge FIR, this is sufficient to dismiss the proceeding registered against the respondent.

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