

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
**Crl. Acq. Appeal No.231 of 2019**

Date	Order with signature of Judge
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1. For orders on M.A. No.3616/2019 (Appln for Spl. leave to appeal)
2. For orders on M.A. No.3617/2019 (Ex/A)
3. For hearing of Main case

**09.05.2019**

Mr. Muhammad Akbar Awan, advocate for the appellant.

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**NAZAR AKBAR,J:-** This Crl. Acq. Appeal is directed against the judgment dated **12.03.2019** passed by XXth Judicial Magistrate East, Karachi in **Case No.601/2016** whereby the trial Court has acquitted Respondents No.1 by extending him benefit of doubt.

2. Brief facts of the case are that on 03.09.2015 the complainant purchased one flat situated in Sunrise Apartment B-21 on Sixth Floor. The complainant purchased the same from one Zubair Khan through state Agent namely Accused Abid Ansari. The Sub Power of Attorney was executed in the name of complainant after one month the accused Abid Ansari requested the complainant to return back such flat to the owner in such account the Accused Abid Ansari issued cheque No.10395222 dated 17.10.2015 and accused Zubair issued cheque bearing No.08443227 dated 03.9.2015 of Bank Al-falah, same cheque were bounced after submitting in the bank, hence this FIR was registered.

3. I have heard the learned counsel for the appellant 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:-

.....“Further the Prosecution has failed to produce any witness of the alleged transaction between the accused Abid Ansari and complainant to substitute base for obligation against the accused. Thus, the Prosecution has failed to establish that the cheques were issued by the accused Abid Ansari for repayment of 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 of any payment to the complainant. So also issuance of cheques with dishonest intention also remained doubtful and not proved by credible evidence”.....

The above observation of the trial Court based on evidence was enough for acquittal of respondents No.1.

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 alongwith listed applications.

JUDGE