

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Appeal No. 154 of 2019

Appellant : Through Mr. Barrister Muneer Iqbal
Respondent No.1 : Through Mr. Siraj Ali Khan Chandio, Addl.P.G.
Respondents No.2&3 : Through Mr. Muhammad Tariq, Advocate

JUDGMENT

Omar Sial, J: Muhammad Noman, the appellant, has impugned a judgment dated 2-3-2019 passed by the learned Special Judge, Anti-Corruption (Provincial) Karachi. In terms of the said judgment Noman was convicted and sentenced as follows:

- (i) 2 years rigorous imprisonment for an offence under section 161 P.P.C. as well as a fine of Rs. 10,000 or in default of payment a further period of 3 months simple imprisonment.
- (ii) 3 years rigorous imprisonment for an offence under section 420 P.P.C. as well as a fine of Rs. 25,000 or in default of payment a further period of 6 months simple imprisonment.
- (iii) 3 years rigorous imprisonment for an offence under section 468 and 471 P.P.C. as well as a fine of Rs. 25,000 or in default of payment a further period of 6 months simple imprisonment.
- (iv) 3 years rigorous imprisonment for an offence under section 5(2) of the Prevention of Corruption Act, 1947 as well as a fine of Rs. 50,000 or in default of payment a further period of 6 months simple imprisonment.

2. A brief background to the case is that in 2013 a direct complaint was filed by Rana Khurram and Imran Mehtab against Noman and one Muhammad Usman. According to the complainants the 2 accused had taken Rs. 400,000 from him upon the promise that they will have him appointed as a school teacher in the Karachi Municipal Corporation. After the payment was made the accused allegedly gave Rana a medical certificate, offer letter, posting order, joining report and service report. Rana worked for 10 days in a school operated by KMC but was subsequently told by the principal of the school that he should no longer come to work. He was paid his salary for 8 days of work but not asked to come back to work nor was any further salary paid to him. Rana approached the

accused who promised to return the money they had taken from him and he was given 2 cheques by the accused, which cheques bounced upon presentation at the bank counters.

3. The accused both pleaded not guilty to the charge and claimed trial. At trial the prosecution examined 3 witnesses. Both the complainants i.e. Rana Khurram (PW-1) and Imran Mehtab (PW-2). The 3rd witness was DSP Pervaiz Akhtar and he was the Inquiry Officer who had conducted the initial inquiry on behalf of the Anti-Corruption Establishment. The accused pleaded their innocence in their section 342 Cr.P.C statements.

4. At the conclusion of the trial the learned trial court acquitted Muhammad Usman but convicted and sentenced Noman.

5. I have heard the learned counsel for the appellant as well as learned counsel for the complainants and learned Addl.P.G. My observations are as follows.

6. Absolutely no investigation was done to establish that the medical certificate, offer letter, posting order, joining report and service report allegedly given by the appellant to the complainant were fake and forged. No witness was examined from the relevant departments who would testify that the documents were not issued by their respective departments. No evidence was on record that the payment of Rs. 400,000 was made by the complainants. The principal of the school where the complainant worked as a teacher was not examined to show the reason as to why the complainant's job was terminated. No evidence was produced at trial to establish that cheques were issued by the appellant. No bank officer was examined who could testify that the said cheques bounced upon presentation. The copies of the cheques which were produced at trial have visibly different signatures and one has unexplained alterations on it. Even in the inquiry conducted by Pervaiz Akhtar the accused were not present to give their version. Not an iota of investigation conducted in the case.

7. Keeping in view the evidence which was produced at trial, I am surprised that the learned trial court reached the conclusion that it did. The prosecution completely failed to establish its case let alone prove it beyond reasonable doubt.

8. The appeal is allowed and the impugned judgment set aside. The appellant is on bail. His bail bond stands cancelled and surety discharged.

JUDGE