

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Appeal No. 170 of 2019

Appellant : Khalil Ahmed Soomro
through Syed Shahid Mushtaq, Advocate.

Respondent : The State
through Mr. Zahoor Shah, D.P.G.

Date of hearing : 27th April, 2023

JUDGMENT

Omar Sial, J: The charge against the appellant is that while he was posted as a personal assistant to the Minister of Zakat & Ushar he created a fake letter dated 14.04.2014, forged the signatures of Qurban Ali Soomro, who was a Section Officer and the letter also had the monogram of the Government of Sindh. He was charged with having committed offences under sections 420, 468 and 471 P.P.C. read with section 5(2) of the Prevention of Corruption Act, 1947.

2. The primary grievance which Zaigham Hussain has was that the appellant, who is his brother-in-law, by making false representations to the Additional Health Secretary, Imran Ata Soomro, on 11.02.2014, wrongly had Zaigham's brother, Mohammad Nawaz Soomro, transferred from Karachi to Khairpur. The transfer order was subsequently cancelled on the intervention of Zaigham Hussain. It was alleged by Zaigham that the appellant instigated one employee of the Zakat & Ushr department by the name of Adnan Khan, to file a complaint with the Sindh Bar Council against Zaigham. In the complaint which was filed with the Bar Council, a transfer order dated 14.04.2014, was attached. The said transfer order had not been issued competently.

3. At the outset of the hearing, Zaigham Hussain appeared and represented that many years had passed since the occurrence, that as both he and the appellant were related, and with a view to create a better family

environment and at the advice of his elder, he had forgiven the appellant. Zaigham requested that he be permitted to withdraw his original complaint and that he has no objection if the appellant is acquitted of the charge. The learned APG too, did not have an objection if the appellant was acquitted after hearing what Zaigham had to say, however, he pointed out that while an offence under section 420 P.P.C. is compoundable, the offences under section 469 and 471 P.P.C. are not. Zaigham Hussain's efforts to bury the hatchet for the sake of peaceful family living is appreciated. I however agree with the contention of the learned APG that offences under section 469 and 471 P.P.C. are not compoundable.

4. The issue is whether the letter dated 14.04.2014, which is at page 39 of the paper book was a forged one. The factor of forgery was not conclusively apparent from the evidence which was led at trial. The disputed letter was signed by Qurban Ali Soomro. This gentleman appeared as PW-2. In his testimony he acknowledged that the letter was drafted in his office and that he had also signed one page of it – "a half signature" according to him, whatever that would mean. Qurban Ali Soomro was authorized to use the Government of Sindh letterhead and there was no evidence to led that the appellant had forged the letterhead and the monogram. No forensic examination was carried out.

5. In view of the above, it appears that the charge of forging the letter was not conclusively proved at trial. Further, the appellant having faced the rigors of trial for many years and having been forgiven by the complainant in order to preserve peace and harmony in the family, also tilts the scales in favour of the appellant. The appeal is therefore allowed and the appellant acquitted of the charge under sections 469 and 471 P.P.C. The parties have already compounded the offence under section 420 P.P.C. The appellant is therefore acquitted. He is on bail. His bail bonds stand cancelled and surety discharged.

JUDGE