

CERTIFICATE OF THE COURT IN REGARD TO REPORTING

Cr. Acc. H. A. 34/18 a/w Others

TA NVEER A. TAHIR VS. THE STATE

HIGH COURT OF SINDH

Composition of Bench: S.B./D. B.

Mr. Justice Mohammad Karim Khan Agha,

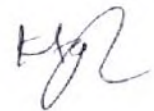
Mr. Justice Zulfiqar Ali Bangi

Date(s) of Hearing: 15-10-18 & 23-10-18

Decide on: 08-11-2019

(a) Judgment approved for reporting:

Yes



CERTIFICATE

Certified that the judgment\*/order is based upon or enunciates a principle of law \*/ decides a question of law which is of first impression / distinguishes / overrules / reverses / explains a previous decision.

\* Strike out whichever is not applicable.

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- NOTE:
- (i) This slip is only to be used when some action is to be taken.
  - (ii) If the slip is used, the Reader must attach it to the top of the first page of the judgment.
  - (iii) Reader must ask the Judge writing the Judgment whether the Judgment is approved for reporting.
  - (iv) Those directions which are not to be used should be deleted.

07-08-2018

*Qaim*

2718

## IN THE HIGH COURT OF SINDH AT KARACHI

Cv. *The State* Appeal No. *34* of 2018

Tanveer Ahmed Tahir  
 Son of Zafaryab Ahmed Tahir, Muslim,  
 adult, the then AIGP Logistic,  
 CPO Sindh Karachi, R/o II, No.5-4  
 Sunset Street-8, Phase-II, Extension,  
 DHA Karachi presently confined at  
 Central Jail, Karachi

Appellant

Versus

The State

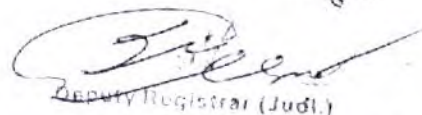
1. National Accountability Bureau  
 through its Chairman, Ataturk Avenue  
 Islamabad.
2. National Accountability Bureau  
 through its Director General Sindh  
 PRC'S Building 197/5,  
 Doctor Dawoodpota Road,  
 Karachi Cantonment,  
 Karachi

Respondents

**APPEAL UNDER SECTION 32 OF THE  
 NATIONAL ACCOUNTABILITY ORDINANCE 1999**

The appellant being aggrieved and dis-satisfied with the impugned judgment dated 31.7.2018 out of Reference No.54 of 2016 has been convicted on offence under section 10 read with serial Nos.4 and 5 of the Schedule of the offence appended with the National Accountability Ordinance 1999 convicting the appellant Tanveer Ahmed Tahir and sentence to suffer R.L. for 10 years imposing fine of Rs.2,50,00,000/- in case of non-payment of fine the appellant Tanveer Ahmed Tahir shall undergo R.L. for



PRESENTED ON  
17-08-2018
  
Deputy Registrar (Judl.)

2872

**IN THE HIGH COURT OF SINDH AT KARACHI**Criminal Accountability Acquittal Appeal No. ~~48~~ of 2018

49

The State  
Through its Chairman  
National Accountability Bureau  
G-5/2 Atta Turk Avenue  
Islamabad.....Appellant

V/s

Syed Fida Hussain Shah  
S/o Syed Ibrar Hussain Shah  
The then AIGP Finance, CPO, Sindh, Karachi  
R/o Village Khair Muhammad Arija, Tehsil Bakrani,  
District Larkana.....Respondent

**CRIMINAL ACCOUNTABILITY ACQUITTAL  
APPEAL U/S 32 OF NAO, 1999**

Being partly aggrieved with and dissatisfied by the Judgment dated 31<sup>st</sup> July, 2018 passed by learned Judge Accountability Court No. III Sindh at Karachi in Reference No. 54/2016, whereby accused Tanveer Ahmed Tahir was convicted and sentenced to suffer rigorous imprisonment for 12 years and fine of Rs 25,000,000, in case of non-payment of fine accused shall suffer R.I for 1x years more, the convicted accused was in judicial custody and he was remanded back to the Central Prison to serve out the sentence. Respondent Syed Fida Hussain Shah was acquitted U/S 265-H(i) Cr PC. The Appellant prefers this Appeal against the said Judgment and prays that this Hon'ble Court may be pleased to call the R&P of the Reference No. 54/2016 (State V/s Tanveer Ahmed Tahir & Another) from the Accountability Court No. III, Karachi and after examining

IN THE HIGH COURT OF SINDH AT KARACHI  
(Constitutional Jurisdiction)

Constitutional Petition No. D- 6991 of 2018

Presented on 04.10.18  
Additional Registrar (Writ)

Tanveer Ahmed Tahir  
son of Zafaryat Ahmed Tahir,  
muslim, adult, the then AIGP Logistic,  
CPO Sindh Karachi, R/o H.No.S-4,  
Sunset Street-8, Phase-II, Extension,  
DHA Karachi presently confined at  
Central Jail, Karachi.....Petitioner

Versus

1. National Accountability Bureau,  
Through its Chairman  
Having its office at NAB Headquarters,  
Ataturk Avenue, Islamabad
2. The Director General,  
National Accountability Bureau (Sindh),  
having its office at PRCS Building,  
197/5, Dr. Daudpota Road,  
Cantonment, Karachi
3. Accountability Court No. III,  
Karachi, Sindh.....Respondents

**PETITION UNDER ARTICLE 199 OF THE**  
**CONSTITUTION OF THE ISLAMIC REPUBLIC**  
**OF PAKISTAN**

The petitioner above named humbly seeks suspension  
of the sentence awarded to him vide Judgment dated 31-7-  
2018 passed by Accountability Court No.III, Sindh, at Karachi  
viz. respondent No.3, pending adjudication of Criminal  
Accountability Appeal No.34 of 2018 filed by the petitioner

7/10/18



**IN THE HIGH COURT OF SINDH AT KARACHI**

Criminal Accountability Appeal No.34 of 2018  
C.P. No.D-6991 of 2018.

**Present:**

Mr. Justice Mohammad Karim Khan Agha  
Mr. Justice Zulfiqar Sangi.

Appellant/Petitioner: Tanveer Ahmed Tahir S/o. Zafaryab Ahmed  
Tahir through Farooq H. Naek, Riaz Ahmed  
Phulpoto and Usman Shaikh, Advocates.

Respondent/State (NAB) Mr. Khalid Mehmood Awan and Mr. R.D.  
Kalhor, Special Prosecutors NAB.

**Criminal Accountability Acq. Appeal No.49 of 2018**

Appellant/the State: Mr. Khalid Mehmood Awan and Mr.  
R.D.Kalhor, Special Prosecutors NAB

Respondent: Syed Fida Hussain Shah S/o. Syed Ibrar  
Hussain Shah through Mr.Shahzeb Masud  
Advocate.

Date of hearing: 15.10.2019 and 23.10.2019.

Date of Judgment: 08.11.2019.

**JUDGMENT**

**MOHAMMAD KARIM KHAN AGHA, J.-** The appellant Tanveer Ahmed Tahir S/o. Zafaryab Ahmed Tahir was convicted by the Accountability Court No.III, Sindh Karachi, by Judgment dated 31.07.2018 for acts of corruption under S. 9 of the National Accountability Bureau Ordinance 1999 (NAO) and was sentenced to suffer R.I. for 10 years and fine of Rs.2,50,00,000/- and in case of non-payment of fine, the appellant was to undergo R.I. for one more year (the impugned judgment). The accused Tanveer Ahmed Tahir shall forthwith cease to hold public office, if any, held by him and further he shall stand disqualified for a period of 10 years to be reckoned from the date he is released after serving the

sentence for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public body or any statutory or local authority or in service of Pakistan or of any province so also shall not be allowed to apply for or be granted or allowed any financial facilities in the form of any loan or advances from any bank or Financial Institution in the public sector for a period of 10 years from the date of conviction. However, accused is entitled for the benefit of Section 382(B) Cr.P.C.

2. Hence the appellant has filed this appeal against conviction.

3. The National Accountability Bureau (NAB) has also filed an appeal against acquittal in respect of the impugned judgment which acquitted the Respondent Fida Hussain Shah. By this common Judgment we intend to dispose of both of the appeals.

4. The brief facts of the case as narrated in the Reference are that on receipt of a complaint an inquiry was authorized by DG NAB against police officers/officials during the course of which it was established that an amount of Rs.50 Million had been withdrawn illegally by the officers/officials of Sindh Police through fake bills, hence an investigation was authorized by NAB against Tanveer Ahmed Tahir, the then AIGP Logistics, Syed Fida Hussain Shah, the then AIGP Finance, officers/officials of Sindh Police and others. It was found that Finance Department Government of Sindh released advice for funds amounting to Rs.50 Million in respect of Petrol Oil and Lubricants (POL) charges in favour of Sindh Police Department for extra ordinary duties and security arrangements during Muharram duties.

5. That out of the said amount of Rs.50 Million an amount of Rs.30 Million was drawn in the name of M/s. Standard Service Station having dealership of Pakistan State Oil (PSO) but the bills of M/s. Standard Service Station do not mention any address or location on the face of bills and there is only one outlet by the name of M/s. Standard Service Station in the Province of Sindh including Karachi which is situated at Plot No.17-



A, Block-VI, PECHS Shahrah-e-Faisal Karachi whereas dealership of the said station is in the name of Moharram Ali Shaikh S/o. Haji Gohram. It was also found that neither any POL item was issued to Sindh Police Department during the year 2014 nor any bill was issued for any payment to the Sindh Police Department from the said Standard Service Station situated at Shahrah-e-Faisal, Karachi and the cheque No.1888928 dated 16.12.2014 for an amount of Rs.30 Million issued in the name of vendor/contractor Standard Service Station was processed in National Bank of Pakistan, Nadir House Branch, Karachi which has been credited in the account of DDO of the Inspector General of Police Karachi having account No.0011959 on 19.12.2014 despite the fact that said cheque was issued in the name of M/s. Standard Service Station. It was further found that in addition to withdrawal of the above said Rs.30 Million, an amount of Rs.20 Million has been withdrawn in the name of M/s. Quick Filling Station, Race Course Road Sukkur having dealership of Shell Pakistan, but one Abdul Wahid Khoso S/o. Hafiz Shafi Muhammad who is the owner of M/s. Quick Filling Station and CNG Station, Race Course Road Sukkur denied issuing bills to Police Department and also denied receipt of any payment from Police Department and an Account No.1000014 in the name of M/s. Quick Filling Station & CNG Station, Race Course Road, Sukkur is being maintained by Muhammad Rafiq S/o. Qurban Ali and the payment of above said Rs.20 Million pertaining to Sindh Police POL bills has been credited into the above said account. It was also found that reverse side of bills of M/s. Quick Filling Station & CNG Station, Race Course Road, Sukkur bears the certification of Police official/MTOs of Larkana and Sukkur Region regarding expenses of POL, however, these police officials stated that bills of M/s. Quick Filling Station Sukkur passed for payment were not issued from their offices and no fuel/POL was obtained by their offices from the above said service station. The cheque No.1890961 dated 05.12.2014 for Rs.20 Million issued by AG Sindh office for Inspector General of Police Sindh Department in favour of Quick Filling Station & CNG Station Sukkur was credited into the bank account of Muhammad Rafiq, Head Constable, Special Branch Sukkur who had withdrawn cash through cheque signed by him despite the fact that he was not the owner



of said filling station, who subsequently admitted his guilt by entering into a plea bargain with NAB whereby he returned the ill gotten gain and was deemed convicted of the offense under S.25 (b) NAO.

6. It is alleged by the prosecution that accused Tanveer Ahmed Tahir the then AIGP Logistics and DDO Accounts Branch, CPO, Sindh, Karachi processed 5 bills for Rs.10 Million each on account of POL expenses and sent to Accountant General Sindh, Karachi for release of payment in the name of M/s. Standard Service Station and M/s. Quick Filling Station, Race Course Road, Sukkur and he verified said bills whereas attached invoices with these bills were found to be fake and no fuel was obtained from the said filling stations and as per signature specimen card and as per order dated 15.7.2014 in respect of account bearing No.0011959 he was authorized to exercise the power of Drawing and Disbursing Officer of the Central Police Office, Karachi. It is also alleged that accused Syed Fida Hussain the then AIGP Finance, CPO, Sindh Karachi sought a general approval on note sheet from the IGP Sindh to incur the POL and other expenses, he had specifically issued financial sanction orders in the name of M/s. Quick Filling Station, Sukkur and M/s. Standard Service Station. As such, both accused named above in connivance with each other have embezzled an amount of Rs.50 Million through fake invoices on account of POL expenses and caused loss to the National Exchequer and have committed an offence of corruption and corrupt practices, hence this reference.

7. To prove its case the prosecution examined 26 witnesses and exhibited numerous documents and thereafter closed its side. Statements of the accused were recorded u/s 342 Cr.P.C. The accused persons claimed that they had acted in accordance with the law, that there had been no wrong doing on their part and they had been falsely implicated with the main culprit being IGP Sindh and other police officials who were let off the hook by the IO due to his lack of understanding of how police financial matters are dealt with and for other extraneous reasons best

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known to himself. Neither of the accused called any witnesses in support of their defense.

8. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment dated 31.7.2018 passed by the trial court and, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

9. Learned counsel for appellant Tanvir Ahmed contended that the evidence on record had not proved that the appellant had engaged in any corruption; it may be that Muhammad Rafiq, Head Constable had entered into a plea bargain but this was because the ill gotten gains had been found in his personal bank account so his involvement in the Quick service station illegal payments was undeniable however the appellant had no link to Muhammad Rafiq and Quick service station; that he was not responsible for requesting the funds as this should have come from the motor transport division which he had nothing to do with and as such he had nothing to do with any invoices received from petrol stations, or preparing them and it was not his job to verify such invoices; that the sanction of the funds had been given by the IGP; that financial approval had been given by AIGP Finance and his role was simply in disbursing the funds as DDO on the instructions of the IGP and AIGP Finance; that no one had alleged that he had taken any money let alone any money had been recovered from him; that since the funds that were meant to be paid to Standard service station had been paid into the police secret service fund no loss had been caused to the Government of Sindh; that there was no mens rea on his part and for one or all the above reasons he was entitled to be acquitted of the charge by being given the benefit of the doubt. In support of his contentions he placed reliance on **The State and others v. M. Idrees Ghauri and others** (2008 SCMR 1118), **Malik Munir Hussain and others v. National Accountability Bureau and others** (2016 P. Cr.LJ 1896), **Wahid Bakhsh Baloch v. The State** (2014 SCMR 985), **National Accountability Bureau through Prosecutor General Accountability, Islamabad v. Khalid Ahmad Khan Kharral** (2013 PLD

849), **Rehman and others V. The State** (PLD 1968 Lahore 464) and **Nasima Bibi v. The State** (PLJ 2008 Sh. C. (AJK) 1).

10. On the other hand, Khalid Mehmood Awan and R.D Kalhoro, Special Prosecutors NAB fully supported the impugned judgment against appellant Tanvir Ahmed and contended that the prosecution had proved its case against him beyond a reasonable doubt. They contended in particular that the invoices were fake, that the invoices had been illegally approved by the appellant and that the appellant had personally gained from the scam by paying the funds into the secret account of the police and then withdrawing the same for his benefit and as such his appeal should be dismissed. In support of their contentions they placed reliance on **Farhat Azeem v. Waheed Rasul and others** (PLD 2000 Supreme Court 18), **Ch. Muhammad Riasit and another v. Muhammad Asghar and another** (PLD 2010 Supreme Court (AJ&K) 29), **Malik Din v. Chairman National Accountability Bureau and other** (2019 SCMR 372), **Ali Ahmed Baloch and others v. The State through NAB Authorities and others** (2013 P.Cr.LJ 1089), **Khadim Hussain Kutrio and another v. The State and others** (2019 P.Cr.LJ 1001) and **Firdous Khan v. The State** (2015 P. Cr.LJ 697).

11. We have heard the arguments of the learned counsel for the parties, gone through the entire evidence which has been read out by the appellant, the impugned judgment with their able assistance and have considered the relevant law.

12. At the outset we would like to point out that we are both surprised and disappointed that NAB is still utilizing its precious resources in pursuing cases of a relatively lesser value. NAB being the premier Anti Corruption Body in Pakistan is expected to pursue mega corruption cases which have caused loss of billions of rupees and should not tie up its valuable and limited resources in cases which do not involve mega corruption. In this respect reliance is placed on **Amjad Hussain V NAB** (2017 YLR 1) where according to NAB's own SOP it would not proceed with cases which caused loss of less than RS 10 crore. Even now the



Government has proposed a bill seeking to increase the minimum amount to not less than RS50 crore

13. In our view the prosecution has **not** been able to prove its case beyond a reasonable doubt against Tanvir Ahmed for the following reasons;

(a) that there appears to be a lack of specificity in both the reference and the Charge which is a potential violation of S.221 Cr.PC in that the appellant is charged under S.9 (a) NAO. S.9(a) NAO contains 12 sub-sections being (i) to (xii) and in all fairness to the accused the particular sub sections to which the appellant had to mount a defense against ought to have been named in both the reference and the charge so that he could properly prepare his defense. Although in our view this defect in the charge is not by itself sufficient to acquit the appellant it is a factor which we must give some weight to as it is a settled principle under criminal law that the accused should know the specific charge against him so that he can adequately prepare his defense. In our view it appears that the reference and charge against the appellant is under S.9 (a) (vi) NAO which concerns a misuse of authority/failure to exercise authority which will lead to benefiting himself or some other person. **Such view is fortified by typed P.26 of the impugned judgment where the learned trial judge refers to an illegal exercise of authority which failed to protect government funds.** Even otherwise there is no evidence of embezzlement or misappropriation on his part.

(b) No prosecution witness has given any evidence against him.

(c) That it has not been proven that he was the originator of the requests for payment on account of POL and the IO carried out no investigation to find out who initiated such requests. Such request should have come through the motor and transport Division over which the appellant had no command and control. No evidence has also come on record that he had any influence over the motor transport division or had anything to do with them.

(d) From the evidence it appears that the appellant had a limited role in processing the bills (certainly less than AIGP Finance and the Finance Department who was acquitted by the trial court) and was more akin to a post box whilst the primary responsibility rested with other persons as set out below:

- (i) PW-1 Mr. Zafar Iqbal in his cross examination has stated that Motor Transport Wing bills are passed after approval by IGP. These bills along with covering letters of SSP's are sent to Finance Wing of IGP, who prepare note sheet for sanction from IGP and note sheet is always prepared after complete description of bills and no bills



are passed without the approval of IGP and signature of IGP Finance.

- (ii) PW-2 Mr. Qamar Raza in his cross examination stated that there is no Motor Transport Wing under the command of AIG Logistics. **Due to this reason Logistic Branch do not prepare any POL bills.** Every month POL bills are received in the office of AIG Logistics from the office of AIG Finance along with sanction order for payment. We only annex Form TR 30 on it. The POL bills of main MT Sindh is received every month through AIG Finance office along with sanction orders therein authorizing expenditure to be incurred and disbursement to concerned vendor from CPO budget. **This is routine way of working prior to the appellant's posting and after my posting and is still being continued.** After issuance of Financial Sanction Orders by the IGP, duly authenticated by AIG Finance, bills were prepared by the accounts branch of CPO after due process and scrutiny on Form TR 30.
- (iii) The veracity and sanctity of POL bills being submitted lies with unit generating those bills and AIG Finance office issuing sanction of expenditure for disbursement. It is pertinent to mention that no bills are passed by AG Sindh until and unless sanction is issued by AIG Finance.
- (iv) The bills in question were received from AIG Finance office along with Sanction Orders B-V 3247/3248 dated 28/11/2014, 3427/3428 dated 4/12/2014 and vide Sanction No.B-V 3630 dated 9/12/2014 of Rs.10 million each. **The same routine procedure was followed; accountant prepared the bills on form TR 30 and after signature of DDO deposited in AG Sindh for issuance of cheque.**
- (v) PW-2 Mr. Qamar Raza has endorsed in his cross examination that subject bills were received from the office of AIG Finance along with the Sanction Order and Form TR 30 was annexed on these bills and sanction and were submitted to AG Sindh.

(e) That since the invoices come from the relevant petrol stations no evidence was produced that the appellant had anything to do with either the petrol stations or their owners or that he had prepared or connived with others in preparing fake petrol invoices.

(f) That the appellant did not sanction payment of any of the bills. **The sanction was made by the IGP and approved by AIGP Finance and there is no evidence on record that the appellant was involved in any illegal sanction.** The impugned judgment has



found no illegalities in the note which led to the authorization of the sanction by the IGP who the impugned judgment has found was the proper sanctioning authority but surprisingly was not even interrogated by the IO let alone being made part of the reference and we have found no evidence to contradict this finding of the trial court judge.

(g) It appears that a number of the documents which were relied upon to convict the accused were photocopies and the originals were not produced despite this being objected to by the accused's counsel with the judge noting that this will be decided at the final stage but the judge failed to decide this issue and as such these photo copy documents used to convict the accused are inadmissible in evidence and cannot be relied upon to convict him. The objection by counsel which remained undecided is at P.185 of the paper book. Significantly some of these documents were important being office copies and copies of bills which were denied by the appellant as being processed by him in his S.342 Cr.PC statement.

(h) The only role which the appellant appears to have played from the evidence is in disbursing payment of the bills on the instructions of AIGP Finance **after** the sanction had already been made by the IGP. The impugned judgment has not found any illegality in the sanction. There is no evidence on record that it was the appellant's function/role/duty to verify the bills. In our view the responsibility of checking the veracity of the bills lay on the most senior officers of the Motor transport Division or the Finance section of the police **prior** to the bills being sanctioned by the IGP. Once the bills have passed through finance and been sanctioned by the IGP it was **too late** to expect the DDO to verify the same. Such verification process had to have taken place **prior** to the sanctioning of the bills. It is also noted that the appellant was under pressure to disburse payment by AIGP Finance as the police feared legal action if the bills were not paid promptly. In P.321 of the paper book there is a certificate issued with AIG Finance which reads as follows, "*It is requested that the bills may kindly be cleared/passed as the dealers also pressing hard for payment, in case of non payment they will go to the court of law*". We also note that according to PW 2 once the bills have been sanctioned and there is sufficient funds in the relevant account the appellant had no authority or power to stop payment and in this case, as observed, the dealers were pressing for payment. Even if we choose to take a harsh approach of any non verification by the appellant as DDO it seems that he was following usual practice in the department which the IO failed to inquire into by his own admission and did not even look into the financial rules and SOP's regarding finance at the CPO. In our view this would only amount to gross negligence/irregularity at the most and not corruption falling under the purview of the NAO especially since the appellant was following the practice then in vogue and remains in vogue today. The Supreme Court as well as various DB's of



this court in a number of authorities have held that negligence/irregularities performed by a Government official does not amount to corruption but rather misconduct which may appropriately be dealt with under the relevant laws of the organization especially if there is no mens rea discernible from the evidence on record.

In the case of **Mansur Ul Haque V Government of Pakistan** (PLD 2008 SC 166) it was held as under in this respect at P.176

*"Learned counsel for the petitioner has not been able to convince us from the evidence on the record that essential elements of mens rea and intention to commit an offence under section 9(A)(vi) of NAB Ordinance were traceable in the transaction or the accused acted for their personal gain at the cost of causing financial loss to the organization (PNSC) or the ships in question were not of viable technology and were not that of international standard and specification. The mere procedural irregularities in the transaction, would not be sufficient to constituted an offence under section 9(a)(vi) of the ibid Ordinance. This is essential to draw distinction between procedural irregularities and violation of substantial provisions of law to determine the question of criminal liability in the transaction. The procedural irregularities may bring an act done in the official capacity within the ambit of misconduct which is distinguishable from criminal misconduct or an act which may constitute an offence and thus unless it is established through the evidence that an act or series of acts done in the transaction constituted an offence, the criminal charge would be groundless. We may point out that notwithstanding the special provisions contained in the NAB Ordinance regarding shifting of the burden of proof, the fundamental principle of the law of criminal administration of justice that basic onus is always on the prosecution to establish the commission of an offence is not changed and in the present case, we find that the respondents having negotiated with the seller company abroad in the official capacity entered into the contract of purchase of ships and in the process certain procedural irregularities constituting an act of misconduct in the contemplation of law applicable to their service were probably committed but the same may not constitute a criminal offence under Section 9(a)(vi) of NAB Ordinance punishable under section 10 of the said Ordinance or under any other law without proof of the existence of element of dishonest intention of personal gain. The prosecution in the present case has not been able to bring on record any evidence to substantiate the allegation of dishonest intention to cause financial loss to the organization for personal gain to bring the case within the purview of National Accountability Bureau Ordinance, 1999. This is settled law that unless prosecution discharges the initial burden of proving the*



charge no presumption of guilt can be raised and in the present case, the prosecution except pointing out certain irregularities committed by the respondents in the transaction of purchase of ships for the use of PNSC, has not been able to bring on record any evidence oral or documentary to show that either the price for which the ships were purchased, was exorbitant or the respondents while acting for their personal gain have caused financial loss or any other damage to the organization. In the light of the facts of prosecution case and the circumstances leading to the completion of transaction it is evident on record that the view of the evidence taken by the High Court was unexceptional." (bold added)

In the later case of **State V Anwar Siafullah** (PLD 2016 SC 276) in this respect held as under at P.298 Para 10.

"10. With reference to the precedent cases mentioned above the law appears to be settled by now that in a case involving a charge under section 9(a) (vi) of the National Accountability Ordinance, 1999 the prosecution has to make out a reasonable case against the accused person first and then the burden of proof shifts to the accused person to rebut the presumption of guilt in terms of section 14(d) of the said Ordinance. It is also apparent from the same precedent cases that a mere procedural irregularity in the exercise of jurisdiction may not amount to misuse of authority so as to constitute an offence under section 9(a)(vi) of the National Accountability Ordinance, 1999 and that a charge of misuse of authority under that law may be attracted where there is a wrong and improper exercise of authority for a purpose not intended by the law, where a person in authority acts in disregard of the law with the conscious knowledge that his act is without the authority of law, where there is a conscious misuse of authority for an illegal gain or an undue benefit and where the act is done with intent to obtain or give some advantage inconsistent with the law. The said precedent cases also show that misuse of authority means the use of authority or power in a manner contrary to law or reflecting an unreasonable departure from known precedents or custom and also that mens rea or guilty mind, in the context of misuse of authority, would require that the accused person had the knowledge that he had no authority to act in the manner he acted or that it was against the law or practice in vogue but despite that he issued the relevant instruction or passed the offending order".(bold added)

Such position was recently re emphasized by the supreme court in the case of **Sikander Ali and others V The State** (unreported)



dated 20-06-2019 in Crim. Appeals 153-158 of 2008 where again in a case of misuse of authority under the NAO it was held as under in material part at para 4 ;

*"Be that as it may the case in hand was one of defective execution of a contract of construction which did not ipso facto reflect upon misuse of authority by a public servant or any other person as contemplated by the provisions of section 9(a) (vi) of the National Accountability Ordinance, 1999 as interpreted by this Court in the case of The State v Anwar Saif Ullah Khan (PLD 2016 SC 276). Another way of looking at the allegations leveled in this case could be that at worst it was a case of an error of judgment vis-à-vis selection of the site for construction or negligence or carelessness in execution of the project without any criminal intent. No independent evidence worth its name had been brought on the record by the prosecution to establish ulterior motives on the part of the present appellants."*(bold added)

Likewise in the case of **Air Marshal (RTD) Waqar Azim V State** (NLR 2003 Crim 361) it was held that bank officials guilty of negligence in matters of finance may be liable to administrative action under the relevant rules however they would not be held penally liable for an offense under the NAO.

Likewise in the case of **Sher Dil Khoso V State** (2011 YLR 105) it was held by a DB of this court when dealing with a case under the Prevention of Corruption Act (II of 1947) that when an employee of a bank while comparing signatures with specimen signature cards commits an error or with gross negligence passes or verifies a signature it may be misconduct under the rules of the organization for which the employer may be justified in taking disciplinary action or imposing a penalty committing of such misconduct or negligence in verifying the signatures could not be held that the employee has cheated the customer or committed an offense.

Likewise in the case of **M.Siddique-ul-Farooque V State** (PLD 202 Kar 24) a DB of this court held in a NAB case that a head of a department or institution might sometimes exceed his normal administrative powers in the interest of the institution and under some wrong impression about his authority on the basis of the practice in vogue or on account of a policy framed by his predecessors and in continuance of without any objection but every such irregularity was not to be treated as a misuse of authority

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and the same was not to be treated as a criminal offense and that mere irregularity on the part of the accused in exercising his authority may attract disciplinary action under the service rules, but in order to establish the offense of corruption and corrupt practices mere irregularity by a holder of public office was not sufficient as the prosecution must establish misuse of authority with intention to gain benefit for himself or another. As such the prosecution had failed to prove the offense of misuse of authority under S.9(a)(vi) NAO

Likewise in the case of **Ramesh Udeshi V The State** (PLD 2004 Kar 224) a DB of this court held that the mere floating of summary in violation of Government Rules of Business would be an irregular exercise of authority which might call for appropriate disciplinary action against the accused under the Service Laws, thereby rendering him liable to disciplinary proceedings in his capacity as a "civil servant", but his such action would not in any way fall within the mischief of "corruption or corrupt practice" as defined in the National Accountability Ordinance 1999 especially as there was no evidence that the accused had made any attempt to obtain any personal gain from the transactions and/or extended illegal gains to any one else and that no loss had been caused as the land in question had been restored to the Government.

(i) We are fortified in this respect by the Functions of the AIGP Logistics as set out in standing order No.231/2009 Government of Sindh Police Department which does **not** include checking invoices and arranging petrol. His functions are set out as under for ease of reference;

ASSISTANT INSPECTOR GENERAL OF POLICE (LOGISTICS),  
CPO SINDH, KARACHI.

1. Mounted Police (all matters).
2. Installation of telephones (offices & residence).
3. Purchase, hiring and repairing of cycles, typewriters and furniture.
4. General conference/meetings, other than law and order and security.
5. Uniform, saddlery.
6. Matters regarding maintenance of old record.
7. Printing/supply of publications and purchase of books and periodicals. Stationery and forms etc. to Police offices

including CPO from Government Printing & Stationery Department etc.

8. Petty purchase for CPO.
9. Overall Incharge of General and Clothing Branches.
10. To make arrangements of meetings of IGP/PPO.
11. Local purchase of stationery and books.
12. Control and supervision of telephone exchanges of CPO, Police mess, Police officers flats and any other such exchange established in future.
13. He will act as secretary for all committees i.e. Procurement and Purchase. He will also be responsible to coordinate evaluation of the new equipment and products and also arrange for their field/lab tests.
14. Any other subject assigned by the IGP/PPO.

(j) It needs to be noted that with regard to the aforementioned SRO at entry No.15 it is the function of the IGP to deal with financial sanctions relating to all government funds and all other private police funds maintained by the police department. Yet the IGP was not even interviewed let alone made an accused in the reference.

(k) It appears that as DDO the appellant authorised payment of a check to Standard Service but even then there is no evidence that he personally paid the cheque in. Even otherwise for some inexplicable reason when the crossed cheque was presented to the bank it was not paid into the account of Standard Service so if the appellant was even attempting a scam he was thwarted as the money never reached the petrol station. There is no evidence on record to show that the appellant was mixed up with any bank official and that he was involved in or influenced the diversion of funds in any way to the wrong account which was the sole responsibility of the bank officials some of whom were not even interviewed by the IO. Apparently due to an oversight on the part of the concerned PW 6 Noor-ur-Rehman who is a banker at NBP this money was paid into the police secret service fund kept by the IGP. **Since the bank kept mum about their mistake the appellant would not have known that the money was paid into the police secret service fund and that there was no evidence that he did know.** Once again surprisingly no banker who may have been involved in any potential scam has been made part of the reference.

(l) In any event once the amount was paid back into the secret police fund this meant that there was no loss to the Government of



Sindh since the secret police fund is used for police purposes such as paying informers.

(m) Even otherwise the evidence on record does not show that any later withdrawals from the police secret fund found their way into the hands of the appellant. According to the PW 7 Mohammed Akbar who was a police constable at the accounts branch for over 25 years he used to withdraw the cash from the DDO account through the cheques (which have been exhibited) given to him by PW 2 Qamar Raza and then he gave the cash back to PW 2 Qamar Raza who was superintendant logistic wing. **In his evidence PW 7 Mohammed Akbar confirmed that he only encashed cheques from the police secret service funds and that cheques encashed did not go to the appellant.** Thus it appears from the evidence that monies were withdrawn from the secret police fund in the usual course following the practice then in vogue and was paid to PW 2 Qamar Raza and not the appellant. What the withdrawal was used for is any ones guess.

(n) That no prosecution witness gave evidence that the appellant received any money and nor was any money recovered from him. **The learned trial judge has erred at typed P.25 of the judgment when it is stated that the monetary gain and amount went in his account as there is no evidence on record that any of the alleged misappropriated funds found there way into the appellants personal account** as was the case with Muhammad Rafiq, Head Constable who on account of the funds going into his personal account felt compelled to enter into a plea bargain.

(o) That no evidence of any application for voluntary return, plea bargain, or pardon on the part of the appellant has been lead by the IO **and no such documents have been exhibited** and as such we cannot assume that any such application was made as this is **not apart** of the evidence on record as such a document had to be exhibited in evidence to form a part of the evidence on record for the trial judge to rely on it. **Thus, in our view it was an illegality committed by the learned trial judge whilst referring to such pardon at typed P.26 of the impugned judgment in order to convict him especially as it is settled law that this question had to be put to the appellant at the time when he recorded his S.342 Cr.PC statement which it was not and as such as a matter of law it cannot be relied upon by the trial judge in order to convict him.** Even if such applications had been made it was still for the prosecution to prove its case against the accused beyond a reasonable doubt through legally admissible cogent evidence which would have included exhibiting these documents and thereby making them a part of the evidence and by the trial judge putting each and everyone of them to the accused in the course of his S.342 Cr.PC statement so that he had the chance to explain the same. As mentioned earlier the plea bargain entered in to by Muhammad Rafiq, Head Constable has no linkage with the



appellant or the other co-accused. It is also settled by now that if a reasonable explanation for his conduct has been given by the appellant in his S.342 statement it cannot simply be ignored by the trial court but must be viewed objectively against the evidence brought against him which it does not appear to have been done in this case. In this respect reliance is placed on **Sabir Ali V The State** (2011 SCMR 629) and even to be treated as more reliable than his statement, if any, under S.164 Cr.PC. In this respect reliance is placed on **Nasir Mehmood V State** (2015 SCMR 423)

(p) As mentioned earlier the actions of the appellant at best can be seen as gross negligence/irregularities **but not corruption** and we are unable to infer any mens rea from his actions from the evidence which in most respects is lacking in his case. In this respect reliance is placed on **The State V M.Idrees Ghauri** (2008 SCMR 118)

(q) Regrettably the evidence of the IO does not add much weight to the prosecution case and indicates that the investigation was not carried out very diligently as can be seen from the following extract of his cross examination at P.1229 of the paper book which has already been specifically noted in the final para's of the impugned judgment.

*"I did not investigate that Motor Transport Wing is under control of AIG Logistic. I did not investigate during investigation from clerk that who put up POL bills before DDO. Voluntarily says I investigate from the accountant. Accountant did not disclose the name of any person who submitted bill before the DDO for signatures. It is correct that original POL bills were not seized. Voluntarily says that office copies were seized which were available in the office of AIG Logistic so also Photostat copies of said bills were seized from the Office of A.G. Sindh. PW Qamar Raza Accountant AIGP Logistic produced office copy of said bills. The sanction orders bear signature of the then AIGP Finance. I did not record statement of auditor from A.G. Sindh regarding authenticity of bills. I did not investigate during investigation that who collected cheque of Rs.30 Million in the name of Standard Service Station from A.G. Sindh. Voluntarily says that PW Qamar Raza, Accountant AIGP Logistic informed me that cheque of Rs.30 million was received by co-accused Syed Fida Hussain Shah from A.G. Office. I investigated that who deposited cheque bearing No.1888928 dated 16.12.2014 of Rs.30 million in the account of DDO. Voluntarily says but I did not come to know about it. Presently I do not remember that who signed deposit slip. I seized deposit slip. I see deposit slip available at page-675 of I.R. and say I do not know who signed the said slip. I investigated from Noor-ur-Rehman concerned bank*

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*officer that how a cross cheque in the name of Standard Service Station was deposited in the account of DDO. He replied that due to rush of work the said cheque in clearing was received with deposited in the account of DDO. It is correct that Noor-ur-Rehman is not an accused in this reference. I did not examine the then Manager NBP Nadir Branch who processed the cheque (Exh. 9/2).*

*I have not recorded the statement of two bank officers who signed transfer scroll register. I do not know that two bank officers sign large scale activity in case of the amount above then Rs.5 lac. During investigation DDO was not informed by bank manager about wrong cheque deposited in DDOs account. I do not know that bank manager informed to A.G. Sindh regarding deposit of wrong cheque. It is incorrect to suggested that bank officers committed fraud by depositing cheque into wrong account. I did not verify during investigation that amount of Rs.138312512,75 available in the DDO account. I do not remember that amount of Rs.166500996.72 were available in the DDO account. I did not investigate that how much amount of secret service funds was lying into the account of DDO. It is correct to suggest that as per note sheet available at page-998 & 999 of I.R. the Accountant submitted that on instructions of IGP Rs.30 Million was required to be withdrawn from account of Secret Service Fund".*

(r) It is true that the appellant did sign some documents however in our view this is insufficient to prove the charge against him beyond a reasonable doubt especially in the absence of any mens rea.

14. It is a cardinal principle of criminal jurisprudence that the prosecution must prove its case beyond a reasonable doubt and it is not for the accused to disprove the case against him who may take any and as many defenses as he likes to the allegations against him as the onus rests on the prosecution to prove its case beyond a reasonable doubt as was held in the case of **Muhammed Shah V State** (2010 SCMR 1009) and the finding of guilt must be rested surely and firmly **on evidence produced in the case and cannot be decided** on surmises and conjectures or high probabilities to prove the guilt of the accused as this would reduce the golden principle of the benefit of the doubt to naught as was held in the case of **Ata Muhammed V State** (1995 SCMR 599) and if there is any

doubt in the prosecutions case the benefit must go to the accused. As was held in the case of **Tariq Pervez V The State** (1995 SCMR 1345) that if there is a **single circumstance**, which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused will be entitled to the benefit not as a matter of grace and concession but as a matter of right. Such principle was recently reiterated by the Supreme court in the case of **Abdul Jabbar V State** (2019 SCMR 129).

15. In our view for the reasons mentioned above the prosecution has failed to prove its case against the appellant Tanveer Ahmed beyond a reasonable doubt and the appellant is entitled to the benefit of the doubt and as such his appeal against conviction is allowed, the impugned judgment is set aside and the appellant is acquitted of the charge. The appellant shall be released unless wanted in any other custody case.

Turning to NAB's appeal against acquittal of Respondent Fida Hussain Shah.

16. It is settled law that judgment of acquittal should not be interjected until findings are perverse, arbitrary, foolish, artificial, speculative and ridiculous as held by the Supreme Court in the case of **The State v. Abdul Khaliq and others** (PLD 2011 Supreme Court 554). Moreover, the scope of interference in appeal against acquittal is narrow and limited because in an acquittal the presumption of the innocence is significantly added to the cardinal rule of criminal jurisprudence as the accused shall be presumed to be innocent until proved guilty. In other words, the presumption of innocence is doubled as held by the Supreme Court in the above referred judgment.

17. In the recent case of **Muhammad Shafi V State** (unreported) dated 07-05-2019 in criminal Appeal 48-L of 2016 this legal position was reemphasized by the Supreme Court in the following terms as under;

*"It is by now well settled that acquittal carries with it double presumption of innocence; it is reversed only when found blatantly perverse, resting upon fringes of impossibility and resulting into miscarriage of*



*justice. It cannot be set aside merely on the possibility of a contra view. The High Court has derogated from settled principles of law and thus departure does not commend itself with approval. Resultantly, Criminal appeal is allowed, impugned judgment dated 15.2.2016 is set aside. The appellant is acquitted from the charge and shall be set at liberty forthwith, if not required in any other case" (bold added)*

18. The main reasons why Respondent Fida Hussain Shah was acquitted of the charge are set out in POINT No 2 typed P.26 and 27 of the impugned judgment which is reproduced as under for ease of reference:

*"In order to prove that accused Fida Hussain Shah while acting as AIGP Finance, Sindh, Karachi obtained general approval for allocation of funds to Logistic branch the prosecution has relied upon note sheet Ex 6/2 which is reproduced herewith:*

NOTE SHEET

Subject: Release of funds amounting to Rs. 75 million.

1. It is submitted that Finance Department vide letter dated 19.11.2014 has provided funds amounting to Rs.75 million vide flag-A. The detail is as under:-
    - i. A03807 POL Charges Rs.50 million.
    - ii. A03904 Hiring Charge Rs.10 million.
    - iii. A03970 Feeding Charges Rs.15 million.

**Total: Rs.75 Million.**
  2. As per West Pakistan Delegation of Financial Rules under the Financial Rules and Powers of Re appropriation Rules 1962, the IGP is competent authority to sanction the amount.
  3. Approval for issue Emergency Certificate is solicited.
  4. Approval for financial sanction of IGP Sindh is solicited for the amount **Rs.75 million** under above items from the account of IGP Sindh (KA-4059) and payment of dealers/firms during Current Financial year 2014-15.
  5. AD/Finance.
- In the light of Para 2/N approval of IGP Sindh is solicited on Para 3 & 4/N.
6. AIGP/Finance.  
**Para 3 and 4/N may be approved.**
  7. IGP Sindh.

Yes.

It reveals that note sheet mentioned above not initiated by accused Fida Hussain Shah, but it was initiated by B-II (branch clerk) forwarded to the Assistant Director (Finance) and then to the accused Fida Hussain Shah AIGP Finance who forwarded the same with remarks "may be approved" to the Inspector General of Police (IGP) Sindh for approval who granted it by endorsing "yes" so also under West Pakistan Delegations of Powers and Financial Rules, 1962. Head of police department is Inspector -General of Police who delegated full powers for sanctioning consumable supplies for police department, the AIGP not delegated such powers, so also word "may be approved" mean that something is possible, but not definite so also it is not showing the authority of accused to disburse, stop, prevent or issue any financial bills. A recommendation "may be approved" is an act that has not binding effect either it may accept or not. None of prosecution witness deposed that whether the accused exceeded any of his powers of acted illegally in making word "may be approved" in the note sheet. There is no evidence of obtaining any illegal gratification and pecuniary benefits by the accused. The I/O during cross examination admitted that he did not see any illegality in the note sheet, relevant cross examination is reproduced herewith:

"It is correct to suggest that Tariq Khaskheli is the person who initiated the note sheet (Ex 6/2).

"I did not see anything illegal in the note sheet (Ex 6/2) because it was regarding general approval of I.G Sindh."

"It is correct to suggest that note sheet (Ex 6/2) does not carry any legal consideration without Sr. No.7 which bears the approval of the I.G Sindh".

"It is correct to suggest that as per note sheet I.G. Sindh is the approving authority."

"During investigation I did not consider any financial law relating to the work of the provincial department particular in police department."

"I did not collect job description of AIGP Finance from the CPO Karachi neither collected Manual of operations."

"It is correct to suggest that column 8 para 4 of IR beneficiary/payment credited is not bears the name of accused Syed Hussain Shah.

Similar another documentary evidence against Syed Fida Hussain Shah, on which prosecution relied upon is Financial Sanction Orders (FSOs) attached with bills (Ex 7/2 to Ex 7/5) bearing numbers 3248 dated 28.11.2014, 3247 dated 28.11.2014, 3427 dated 04.12.2014, 3630 dated 09.12.2014 and 3428 dated 04.12.2014 the prototype of all



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FSOs are same except date, out ward number and dealer, so out of five FSOs one is reproduced herewith:-

**GOVERNMENT OF SINDH  
POLICE DEPARTMENT**

**FINANCIAL SANCTION ORDER**

In exercise of the powers vested in vide serial No.3 (a) of the West Pakistan Delegation of Powers under the Financial Rules and the powers of Re-appropriation Rules 1962, Sanction is hereby accorded to incur an expenditure of Rs.10,000,000/- (Rupees ten million) on account of POL charges drawn during month of October 2014 by the Sindh Police vehicle (List enclosed).

2. The expenditure involved is debitable to the head of account "SC-21014 Police-KA4059 IGP Sindh Karachi" under item "AO3807 POL Charges" during the current financial year 2014-15.
3. The amount shall be drawn and paid to M/s. Quick Filling Stations Sukkur through cross cheque.

Sd/-  
(Inspector General of Police)  
Sindh Karachi.

No.B-V/FSO/3248

Karachi dated 28.11.2014

Copy forwarded to the following for information and necessary action:-

1. The Accountant General Sindh Karachi.
2. PS to IGP Sindh.
3. The DIGP (T&T) Sindh Karachi 4.
4. The DIGP Sukkur/Larkana/Benazirabad Ranges.
5. Master File.

(Syed Fida Hussain Shah) PSP  
AIGP (Finance)  
For Inspector General of Police  
Sindh Karachi.

Every letter requires authentication at the end which means who takes the responsibility of what has been said in the foregoing letter and takes the burden upon his shoulders by putting his signature, there is word "sd/" above to the designation of Inspector General of Police Sindh, Karachi, on FSO, in simple language this "sd/" means 'signed/signature' and a person takes the responsibility of what has been said in the foregoing letter so here "sd/" is signature of IGP. In the end of FSO there is signature of accused Fida Hussain Shah For Inspector General of Police which means on behalf of IGP Sindh which is also admitted by I/O so also contents reveals that it

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was forwarded for information to concern departments during cross examination I/O admitted as under:

*"It is correct to suggest that as per note sheet I.G Sindh is the approving authority."*

*"The expression on financial sanction order dated 28.11.2014 i.e. (Syed Fida Hussain Shah\_ PSP AIGP (Finance) For Inspector General of Police Sindh Karachi means on behalf of I.G.P. Sindh."*

*"It is correct to suggest that during investigation my consideration, deliberation in respect of all Financial Sanction Orders bearing No.3427 & 3428 dated 04.12.2004 and bearing No.3247 and 3248 dated 28.11.2014 and financial sanction order bearing No.3630 dated 09.12.2014 were same and equal."*

*The most important character in the note sheet and FSO is IGP who is officer in category-1 and Head of Police Department and sole authority of any financial sanction and without him no document either processed by the branch clerk or forwarded. The entire legal burden of approving the note sheet and FSO lies on the shoulder of the IGP, under The Sindh Delegation of Powers under the Financial Rules and Powers of Re-appropriation Rules, 1962 IGP is sanctioning authority; I/O has deliberately failed to fix responsibility upon the then IGP Sindh nor booked him in presence reference without any legal basis and applied double standard for the reasons best known to him thus prosecution has failed to prove the sole authority of accused Syed Fida Hussain Shah in sanctioning expenditure on account of POL charges neither collects any evidence to prove that accused acted illegally or he at his own initiated note sheet therefore point No.2 answer as not proved."*

19. When asked to point out what was the illegality in the above finding the special prosecutor NAB was unable to do so apart from a general assertion that the learned trial judge had misread the evidence. In support of their contentions they placed reliance on **Mst Zahida Sattar V Federation of Pakistan** (PLD 2002 SC 408), **The State v. Abdul Ghaffar** (1996 SCMR 678), **Agha Wazir Abbas and others v. The State** (2005 SCMR 1175), **Siraj Din V The State** (2001 YLR 1307), **The State v. Agha Wazir Abbas and others** (2004 SCMR 1824)

20. Learned counsel for Respondent Fida Hussain Shah initially submitted that NAB's appeal against acquittal was time barred. However we have observed that the certified copy of the judgment was received by



NAB on 07-07-2018 and the appeal was filed on 17-08-2018 and thus the appeal was filed by NAB within 10 days which is within the prescribed period under S.32 NAO and as such this submission is misconceived as NAB's appeal is within time.

21. On merits learned counsel for Respondent Fida Hussain Shah submitted that as a matter of law the appeal against conviction could not succeed as the acquittal of the respondent through the impugned judgment was not arbitrary or whimsical but had solid foundations in law and fact based on the evidence on record. In essence he argued that the note to pay the POL which was at the heart of the prosecution case against him as admitted by the IO had been legally sanctioned by the IGP and that there is no evidence on record that he mislead the IGP in his note or even forged the signature of the IGP. The Respondent had simply proceeded in accordance with the relevant rules in a rather post box fashion and there had been no misuse of authority by him and no evidence of the same could be found on the record and as such NAB's appeal against his acquittal should be dismissed. In support of his contentions he placed reliance on **Ramesh U.Udeshi V State** (SBLR 2005 SC 37)

22. We have heard Special Prosecutor NAB and learned counsel for Respondent Fida Hussain Shah in respect of NAB's appeal against acquittal and have considered their arguments and the relevant law.

23. Keeping in view the above law on appeals against acquittal and our analysis of the evidence which does not show any misreading of the same and the impugned judgment we find that the respondent has rightly been acquitted of the charge by the impugned judgment as the findings of the trial court are neither perverse nor speculative but rather well reasoned and we find no reason to interfere with the same and as such the appeal against acquittal of the respondent is dismissed.

24. In summary the appellant Tanveer Ahmed's appeal against conviction is allowed and he shall be released unless wanted in any other

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custody case and NAB's appeal against the acquittal of Syed Fida Hussain Shah is dismissed.

25. The appeals are disposed of in the above terms.

*Arif*