

IN THE HIGH COURT OF SINDH AT KARACHI

CRIMINAL APPEAL NO.160 OF 2017

Date

Order with signature of Judge

For hearing of main case.

07.02.2022.

Mr. Muhammad Iqbal Bhatti, Advocate for the Appellant

Mr. Khaleeq Ahmed, Advocate for complainant

Mr. Muhammad Iqbal Awan, Additional Prosecutor General Sindh

J U D G M E N T

Mohammad Karim Khan Agha J. The Appellant Asmat Rasool Qadri s/o Hashmat Rasool Qadri was tried by the Special Court (Offences in Banks) Sindh at Karachi in Case No.14 of 2014 in respect of FIR No.594/2009 of PS Aziz Bhatti under section 420/408/468/471 PPC vide judgment dated 11.03.2017 he was convicted under the aforesaid offences and sentenced to suffer seven years R.I. on each count and fine of Rs.33,19740/-.

2. The brief facts of the case are that the appellant was working as Office Superintendent in Teachers Cooperative Housing Society Karachi whereby a number of forged cheques were discovered of HBL belonging to society and when confronted with the forged cheques of which three had been paid directly into his own Bank account the appellant admitted in writing that he had committed forgery and misappropriated the money. Thereafter the complainant and other members of society lodged the FIR with PS Aziz Bhatti.

3. After carrying out usual investigation the case was challaned and when the accused was charged, he pleaded not guilty and claimed trial.

4. The prosecution in order to prove its case examined four PWs and exhibited numerous documents and other items. The appellant's statement under section 342 Cr.P.C was recorded wherein he claimed his innocence. However, he did not give evidence on Oath or call any DW in support of his defence case.

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5. After hearing the parties and appreciating the evidence on record the learned Trial Court convicted and sentenced the appellant vide judgment dated 11.03.2017 as stated earlier in this judgment.

6. The evidence and facts of the case are set out in the impugned judgment and it is not necessary to set out the same in this judgment in order to avoid duplication and un-necessary repetition.

7. After reading out of the evidence learned counsel for the appellant under instructions of the appellant, who was on bail, stated that he did not want to proceed with the case on merits but would be satisfied with reduction of the sentence of the appellant keeping in view that he was an old man, he had family to support, that he was showing his genuine remorse by pleading guilty.

8. The learned Additional Prosecutor General and learned counsel for the complainant had no objection to such proposition.

9. We have gone through the record of the case and find that the prosecution witnesses are reliable, trustworthy and confidence inspiring and there evidence was not shattered in cross examination and we believe that evidence. We have also considered the relevant bank documents which include the cheques payable into the account of the appellant as well as the appellants admission of his guilty before the complainant and that the appellants signatures are matching and with the relevant documents and as such find that the prosecution has proved its case beyond any reasonable doubt and uphold his conviction.

10. With regard to sentencing keeping in view the mitigating circumstances raised by learned counsel for the appellant especially considering that the amount of the fraud is on the lower side, that the appellant has already served out a substantial portion of his sentence and the no objection given by the learned A.P.G. and counsel for the complainant we hereby reduce the sentence of the appellant to time already undergone in jail custody. The appellant however still has to pay fine of Rs.3319740/- in total, as opposed to on each count, as this was the total loss suffered by the Society on account of his fraud and in case of non-payment of such fine, he shall suffer further R.I. for one year. As such

until such time as the appellant has paid his fine of Rs.3319740/- or undergone further one year Rigorous Imprisonment the appellant shall remain in jail custody. The appellant present on bail is hereby taken into custody and shall be returned immediately to Central Prison Karachi until such time as he pays the above mentioned fine and in the event that he fails to do so he shall suffer a sentence of one year Rigorous Imprisonment.

11. This appeal is disposed of in the above terms.

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