

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Acq. Appeal No. S – 111 of 2022

Appellant:	Abdul Waheed Malik, through Mr. Achar Khan Gabol, Advocate.
Respondent No.2:	Umair Ahmed Kamboh, through Ms. Rizwana Jabeen Siddiqui, Advocate.
The State:	Through Mr. Gulzar Ahmed Malano, Assistant Prosecutor General.
Date of hearing:	05-05-2025
Dated of decision:	05-05-2025

J U D G M E N T

Zulfiqar Ali Sangi, J. – Through the instant Criminal Acquittal Appeal, the appellant / complainant has assailed the judgment dated 15.08.2022 passed by learned Judicial Magistrate-I (MTMC), Kandiaro in Criminal Case No.15/2022 (*Re: State vs Umair Ahmed*), arising out of FIR No.03/2022 registered at Police Station Mehrabpur, District Naushahro Feroze under Section 489-F, PPC, whereby the learned trial Court acquitted the respondent / accused of the charge.

2. Briefly, the facts of the case as alleged by the complainant are that the respondent / accused issued a cheque of Rs.4,41,000/- to the complainant, Abdul Waheed Malik, as balance payment against purchase of five motorcycles allegedly sold to him on 10.09.2021. The cheque was dishonoured upon presentation, leading to registration of the FIR under Section 489-F, PPC.

3. Learned Counsel for the appellant / complainant has contended that the judgment of acquittal is contrary to law and facts; that the learned trial Court has misread the evidence; that the cheque, return memo and testimonies of witnesses were sufficient to prove the case beyond

reasonable doubt. He prayed for setting aside the acquittal and for conviction of the accused.

4. Conversely, learned Counsel for the respondent / accused submitted that the complainant failed to establish the issuance of cheque against a legally enforceable obligation; that no written agreement, sale receipt, or independent witness was produced; and that prosecution evidence lacked credibility and certainty. She contended that neither the respondent / accused had purchased motorcycles from the complainant nor had issued any cheque to him. She, thus, supported the findings of the learned trial Court and prayed for dismissal of the appeal.

5. Learned APG appearing for the State adopted the arguments advanced by learned Counsel for the respondent and supported the impugned judgment, submitting that the trial Court has rightly extended benefit of doubt based on lack of evidence.

6. I have heard learned Counsel for the parties and perused the record with their assistance.

7. Perusal of the trial Court's record reveals that the complainant failed to produce any documentary proof of sale, such as receipts, sale invoice, or a written agreement showing the motorcycles were sold to the accused. During cross-examination, the complainant admitted he had no showroom or formal business premises and that the alleged transaction was not documented. The cheque in question, though dishonoured, was not established to have been issued in discharge of any legally enforceable debt or obligation. The trial Court has elaborately considered the ingredients of Section 489-F, PPC and rightly concluded that the essential element of issuance of cheque dishonestly against a valid obligation was not proved.

8. The principles governing interference in acquittal appeals are well-settled. Unless the findings of the trial Court are found to be perverse, arbitrary, or based on misreading of evidence resulting in miscarriage of justice, interference is unwarranted. Reliance is placed on the cases of Muhammad Ijaz Ahmad vs Fahim Afzal (1998 SCMR 1281) and Jehangir vs Amanullah (2010 SCMR 491), which reiterate the doctrine of double presumption of innocence in favour of an acquitted accused.

9. In the instant case, the trial Court has assigned sound and cogent reasons for acquitting the accused. No misreading or non-appraisal of material evidence is apparent. Rather, the prosecution's failure to produce reliable and confidence-inspiring evidence justifies the conclusion drawn by the trial Court.

10. Accordingly, this Court finds no reason to interfere with the well-reasoned acquittal. The appeal being devoid of merit is hereby **dismissed** and the judgment of acquittal dated 15.08.2022 is **maintained**.

J U D G E

Naveed Ali