

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

*Criminal Acquittal Appeal No. S– 59 of 2025.
(Shahid Ali vs. The State and another).*

**Before;
Mr. Justice Ali Haider ‘Ada’.**

Appellant : Shahid Ali, through Mr. Wazeer Ahmed
Ghoto Advocate

Date of hearing: 16.03.2026.
Date of decision: 16.03.2026.

JUDGEMENT

Ali Haider ‘Ada’ J: Through this Criminal Acquittal Appeal, the appellant, being the complainant, has assailed the judgment dated 03.05.2025, passed by the learned Civil Judge and Judicial Magistrate-I, Mirpur Mathelo, in Criminal Case No. 117 of 2022 arising out of FIR No.222 of 2022 registered at Police Station “A” Section, Ghotki for an offence under Section 489-F PPC, whereby the respondent No.2/accused was acquitted.

2. The crux of the prosecution case is that the appellant/complainant lodged the above FIR on 01-07-2022, while the alleged incident is stated to have taken place on 24-05-2022. According to the complainant, respondent No.2/accused received an amount of Rs.10,00,000/- from him and, in discharge of the said liability, issued a cheque in favour of the complainant. However, when the cheque was presented for encashment, it was dishonoured, which ultimately led to the registration of the FIR. After registration of the case, an investigation was carried out by the Investigating Officer, who thereafter submitted the report/challan before the learned trial Court.

3. The learned trial Court, after taking cognizance of the matter and supplying the relevant documents to the respondent No.2/accused, framed a charge against him, to which he pleaded not guilty and claimed trial. In order to prove its case, the prosecution examined the appellant/complainant as well as other

witnesses, namely Ubedullah, HC Khalid Chachar, and ASI Nasrullah. After examining these witnesses, the prosecution closed its side.

4. Thereafter, the statement of respondent No.2/accused was recorded under the relevant provision of law, wherein he professed his innocence. However, he neither examined himself on oath nor produced any defence witnesses.

5. Upon completion of the trial and after hearing the learned counsel for the parties, the learned trial Court passed the judgment dated 03.05.2025, whereby the respondent No.2/accused was acquitted of the charge. Being dissatisfied with such judgment, the appellant/complainant has filed the present Criminal Acquittal Appeal.

6. Learned counsel for the appellant contended that the prosecution had fully established its case through reliable and confidence-inspiring evidence and that the issuance of cheque by respondent No.2/accused itself constituted an admission of liability. He argued that all the essential ingredients of Section 489-F, P.P.C. were clearly attracted in the present case; however, the learned trial Court failed to properly appreciate the material available on record and erroneously acquitted the respondent No.2/accused, thereby committing a miscarriage of justice. He further submitted that an application under Section 540, Cr.P.C., was moved by the appellant for summoning the bank officials, which was unjustifiably dismissed, thus depriving the appellant of an opportunity to produce material evidence in support of his case.

7. Heard and perused the material available on record.

8. At the outset, it is to be examined whether the essential ingredients of Section 489-F, P.P.C. have been established in the present case. A careful perusal of the record shows that the prosecution has failed to satisfy the basic requirements of the said provision. It is a settled principle of law that mere issuance of a cheque does not constitute an offence under Section 489-F, P.P.C. unless it is proved that the cheque was issued dishonestly for

repayment of a loan or to fulfill an obligation arising out of a lawful contract or agreement. In the instant case, the prosecution's evidence is completely silent on this material aspect, as there is nothing on record to demonstrate that respondent No.2/accused was under any legal obligation to discharge such liability. In this regard, reliance is placed upon the case of **Iqbal Ahmed v. Syed Danish Hussain Zaidi and others (2022 YLR Note 202)**.

9. Furthermore, the FIR was lodged on 01.07.2022, whereas the alleged incident occurred on 24.05.2022, resulting in an unexplained delay of more than one month in its registration. Such a delay has not been satisfactorily explained by the complainant and creates doubt about the prosecution's case.

10. Additionally, the record does not reveal the circumstances under which the alleged amount of Rs. 10,00,000/- was paid to respondent No.2/accused, nor is there any evidence regarding the purpose or nature of the transaction. The complainant has failed to produce any documentary or independent evidence to prove that the said amount was actually paid for any lawful consideration. In the absence of such proof, the essential ingredients of the offence cannot be said to have been established. Guidance in this respect may be sought from the case of **Muhammad Sohail Haroon v. Shoukat Ali and others (2024 YLR 2804)**.

11. It is also a well-settled principle that an appeal against acquittal has a limited scope. The presumption of innocence in favour of an accused is further strengthened after acquittal by the trial Court, and ordinarily, the appellate Court does not interfere unless the impugned judgment is perverse, arbitrary, or based on misreading or non-reading of evidence. Reference may be made to the case of **Fida Hussain alias Saboo v. The State (2025 SCMR 993)**, wherein the Honourable Supreme Court reiterated the principle of double presumption of innocence in favour of an acquitted accused.

12. In view of the above discussion, this Court finds no reason to interfere with the judgment passed by the learned trial Court.

Consequently, the instant Criminal Acquittal Appeal, being without merit, is hereby dismissed along with the listed application.

JUDGE