

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Accountability Appeal No.21 of 2012
(Syed Mohsin Ali Vs. The State)

Date	Order with Signature of Judge
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Present:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Syed Fiaz Ul Hassan Shah

1. For order as to maintainability of
MA No.4681 of 2013.
2. For hearing of MA No.14095 of 2021.
3. For hearing of main case.

Mr. Irshad Ali Jatoi, Advocate for the appellant.
Mr. Imdad Ali Sahito, Advocate for applicant / intervenor.
Malik Naeem Iqbal, Advocate for the petitioner in
C.P. No.D-3902 of 2023.
Mr. Khaleed Ahmed, DAG.
Syed Khurram Kamal, Special Prosecutor NAB.

Date of hearing: 23.12.2025

J U D G M E N T

Syed Fiaz Ul Hassan Shah; J: The appellant has challenged the judgment dated 29.08.2012 (“**impugned judgment**”) passed the learned Accountability Court No.I, Sindh Karachi (“**Trial Court**”), in NAB Reference No.05 of 2008 (“**NAB Reference**”) and convicted the appellant for the commission of offences under Section 9(a)(ix) and punished under Section 10(a) of the National Accountability Ordinance, 1999 (“**NAO**”) to undergo 10 years’ Rigorous Imprisonment (R.I.) and fine of Rs.50,00,000/- and in case of default of payment of fine, he would have to further undergo two years’ R.I., while extending the benefit of Section 382-B Cr.P.C. as well as the appellant further stood disqualified under Section 15 of the NAO for a period of ten years from being elected or chosen or 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 Province and disentitled to obtain financial facilities.

2. The facts of the NAB Reference are that the appellant / accused claims to be the owner of land admeasuring four acres situated in Survey No.15, Deh Sohnwalhar, Taluka Kotri, District Jamshoro. The appellant launched a

housing scheme under the name and style of Gulshan-e-Hassan which was approved by the Hyderabad Development Authority (“HDA”) in the year 1993 and also issued no objection for selling the plots in the name of M/s. Al-Rehman Builders thereafter the appellant had obtained earnest money from different allottees by inviting the general public through print and electronic media, while maintaining the account at Allied Bank Limited, Saddar Branch, Hyderabad, under the A/c. No.1468. It is further case of prosecution that the HDA has approved the layout plan for 80 plots of different categories that is 15 plots of 200 sq. yds., 17 plots of 150 sq. yds., 23 plots of 120 sq. yds., and 25 plots of 80 sq. yds. and in response the appellant had received 230 applications for the allotment of the plots in his housing scheme and instead of granting 80 applications for the available pool of 80 plots, the appellant dishonestly accepted 230 applications and collected the earnest money of the plots on account of costs of plots and development charges when the appellant has only approved 80 plots and has no other plots to accommodate the 230 candidates / proposed allottees.

3. Consequently, on complaint, the NAB has started inquiry, converted it into investigation and filed the Reference with calculation of Rs.3.5 million losses to the affectees on account of dishonest overbooking. At the initial stage, the appellant approached the NAB for return of the loss amount of Rs.3.5 million by a deal of Voluntarily Return (V.R.) which was rejected.

4. On 14.11.2009 the charge was framed by the trial Court at Exh.2 which was not pleaded guilty by the appellant at Exh.3. After framing of the charge, NAB has examined 15 prosecution witnesses who have produced records at Exh.4/1 to Exh.19/3 thereafter the side of the prosecution was closed and the appellant has recorded his statement under Section 342 Cr.P.C. vide Exh.21.

5. We have heard the counsel for appellant and Special Prosecutor NAB and perused the record.

6. When we confronted the learned counsel for the appellant that the layout plan was approved by the HDA for the 80 plots while the appellant has accepted 230 applications from proposed allottees for allotment of plots and the appellant has realized the earnest money from 230 candidates beyond existing pool of plots rather than the 80 candidates as the appellant has only 80 plots in his said project as has been approved by the HDA, which fact has

been confirmed by PW-1 Shakeel Ahmed, Director HAD, who produced record at Exh.4/1, Exh.4/2 and Exh.4/3, as well as by PW-2 Muhammad Shabbir Ahmed, Deputy Director HDA, at Exh.5/5, the learned counsel states that he does not press this appeal and requests that the conviction and sentence may be modified to the incarcerated period which the appellant has already undergone. Consequently, we dismiss the instant appeal alongwith listed applications while maintaining the judgment of conviction passed by the learned trial Court with modification that the sentence of the appellant is reduced to one which he has already undergone while reducing the fine amount to Rs.40,00,000/- and in case of default in payment of fine, the appellant would further undergo two years' R.I. as has already been observed. The appellant is directed to deposit the fine amount of Rs.40,00,000/- on or before 27.01.2026 with the Nazir of this Court who shall transmit the said amount to the State Bank of Pakistan / National Treasury forthwith. In case the fine amount is not deposited, the office shall issue NBW of the appellant through I.O. for serving sentence in default of fine amount.

Office is directed to de-tag the Constitutional Petition No.D-3902 of 2023 attached with this appeal and place before the Constitutional Bench in view of the 27th Constitutional Amendment for its disposal.

JUDGE

JUDGE

Asif