HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Acquittal Appeal No.S-01/2025

Appellant/Complainant: Ali Muhammad s/o Allah Warayo
Through Mr. Muhammad Yaseen Khaskheli, Advocate.

Respondent No.1/Accused: Qadir Bux s/o Hussain Bux
Through Mr. Ali Khan Laghari, Advocate (called absent)

Respondent No.2 : The State
Through Mr. Neel Parkash, D.P.G.

Date of Hearing : 15.10.2026

Date of Judgment : 15.10.2026

J U D G M E N T

Nisar Ahmed Bhanbhro, J: This Criminal Acquittal Appeal is directed against the Judgment dated 05-12-2024 passed by the learned Civil Judge & Judicial Magistrate-II, Sanghar in Criminal Case No. 101/ 2024 (arising out of F.I.R bearing Crime No. 99/ 2024 for offence under section 489-F P.P.C., registered at P.S Sanghar) "*Re-The State versus Qadir Bux*" whereby respondent No.1/ accused was acquitted from the charge under section 245(1) Cr.P.C.

2. Facts in brief of the prosecution case as per F.I.R lodged by complainant Ali Muhammad on 29-04-2024 are that he is landlord by profession. On 29.08.2023, he along with Muhammad Suleman Bhatti was sitting at the pesticide shop of Junaid Wassan situated on Sanjhoro Road. At about 11:00 a.m., a person namely Qadir Bakhsh son of Bhuro alias Hussain Bakhsh Brohi, resident of Abdul Aziz Brohi, Taluka Sanghar, came there and in presence of Muhammad Suleman son of Muhammad Hassan Bhatti and Junaid son of Allah Bakhsh Wassan, purchased 325 maunds of wheat from complainant for a total consideration of Rs.1,583,400/- (Rupees Fifteen Lac Eighty-Three Thousand Four Hundred only). In consideration thereof, he (respondent/accused) issued him cheque No. 149027725, dated 29.08.2023, for an amount of Rs.1,583,400/- of Habib Metro Bank, Sanghar Branch. Complainant deposited said cheque into his account at JS Bank, Sanghar Branch, on 09.10.2023. However, on 11.10.2023, bank Manager returned cheque along with a memo stating that accused was

having *photo account*. Thereafter, in presence of witness Muhammad Suleman, he informed Qadir Bakhsh about the dishonour of the cheque, who assured him that he would settle the transaction. Subsequently, complainant approached the respectable persons of the area and requested their intervention, but the accused failed to settle the matter. Then after obtaining order on application under section 22-A and B Cr.P.C from the concerned learned Ex-Officio Justice of Peace, complainant lodged instant F.I.R at P.S Sanghar.

3. Investigation followed its due course and report under Section 173 Cr.P.C was submitted before the learned Trial Court. Respondent No.1 was indicted for the charge wherein he claimed trial. In order to prove charge prosecution examined appellant/ complainant Ali Muhammad, PWs Suleman (witness/mashir), SIP Bahadur Ali (I.O) and PC Mehar Ali (mashir). Statement of the accused under section 342 Cr.P.C was recorded, wherein he professed innocence. Learned trial Court after hearing the parties and on appraisal of the evidence acquitted the respondent/accused on the ground that sufficient material contradictions and infirmities have surfaced in the prosecution evidence and prosecution has failed to prove its case beyond shadow of reasonable doubt; hence this Criminal Acquittal Appeal.

4. Learned counsel for the appellant contended that prosecution produced documentary evidence besides issuance of cheque was not denied by the accused. However when confronted to findings rendered by the learned Trial Court discussed hereinabove he failed to controvert the same.

5. Learned D.P.G also supported the impugned judgment

6. Heard learned counsel for the appellant and learned D.P.G for State. Learned trial Court after appreciation of evidence and material available on record observed that there are material contradictions and infirmities in the prosecution evidence and prosecution had failed to prove its case beyond shadow of reasonable doubt. The dishonesty of the person issuing cheque is the relevant factor bringing the issuance of cheque within the ambit of an offence punishable under section 489-F P.P.C., which is lacking in the prosecution case.

7. For recovery of alleged amount, appellant had filed Summary Suit No. 13 of 2024 against the respondent No.1, which was decreed by learned Additional District Judge-II (MCAC), Sanghar, vide judgment 20-09-2024 and against said

judgment, the respondent No.1 preferred First Appeal No. S-36 of 2024, which is pending adjudication before this court.

8. Learned counsel for the appellant has failed to point out any illegality or material illegality in the impugned judgment requiring interference by this Court.

9. For the aforesaid reasons, I do not find any illegality, misreading or non-reading of evidence in the impugned judgment. Even otherwise, it is well settled principle of criminal jurisprudence that acquitted accused enjoys double presumption of benefit of doubt, one before the trial of the case and second after his acquittal and acquittal cannot be interfered without any strong and exceptional reasons which are lacking in the instant case. The instant Criminal Acquittal Appeal, therefore, fails and is accordingly dismissed.

JUDGE

"Saleem"