

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE ATHAR MINALLAH
MR. JUSTICE IRFAN SAADAT KHAN
MR. JUSTICE MALIK SHAHZAD AHMAD KHAN

CRIMINAL PETITION NOs.143 & 359 OF 2023

(On appeal against the judgment dated 23.01.2023 of the Lahore High Court,
Rawalpindi Bench in Cr. Appeals No. 521 & 527 of 2019)

Muhammad Rashid
(In Cr.P. 143/2023)

Muhammad Younas Qureshi
(In Cr.P. 359/2023)

... Petitioners

Versus

The State through DAG and another
(In both cases)

...Respondents

For the Petitioners: Mr. Aftab Alam Yasir, ASC
(In Cr.P. 143/2023)
Mr. M. Adeel Arshad, ASC
(In Cr.P. 359/2023)

For the State: Raja Muhammad Shafqat Abbasi, DAG
Mr. Sarwat Durrani, ACC, FIA
Mr. Danish, SI, FIA Islamabad
Mr. Muhammad Yasin, Pak Post

On Court's Notice: Mr. Muhammad Aslam (PW-5)

Date of Hearing: 03.10.2025

ORDER

IRFAN SAADAT KHAN, J.- These petitions are directed against the judgment of the High Court dated 23.01.2023 whereby Criminal Appeals Nos. 521 and 527 of 2019 were dismissed by maintaining the order of the Trial Court dated 27.06.2019 passed in Special Case No. 06/2017.

2. Briefly stated the facts, as per FIR bearing No. 5 dated 06.03.2017, registered at Police Station FIA, Islamabad, reported by Mr. Ehsanullah, Chief Postmaster, GPO, Rawalpindi (PW-1) are that both the petitioners, namely, Muhammad Rashid (hereinafter referred to as "**MR**") and Muhammad Younas Qureshi (hereinafter referred to as

“MYQ”) had embezzled Rs.14,931,650/- and thus they were accused in respect of charges, as contained under Sections 409, 420, 468, 471 and 34 of the Pakistan Penal Code, 1860 (hereinafter referred to as the **“PPC”**) read with Section 5(2) of the Prevention of Corruption Act, 1947 (hereinafter referred to as the **“Act”**). The matter proceeded before the Trial Court which, after recording the depositions of fifteen prosecution witnesses, found the aforementioned accused guilty of the charges levelled against them and resultantly convicted and sentenced them under Sections 409 and 34, PPC with rigorous imprisonment (**“R.I.”**) for ten years each, along with imposing fine of Rs. 5 million on each and in case of default thereof sentencing each to undergo simple imprisonment (**“S.I.”**) for two years and six months. As per the Trial Court, the prosecution had also proved its case under Section 5(2) of the Act and the petitioners were convicted and sentenced to five years of R.I. each, alongside a fine of Rs. 2.5 million each and in case of default to further undergo S.I. for 15 months each. The benefit of Section 382-B Cr.P.C. was however extended in favour of the petitioners.

3. The appeals filed before the High Court were dismissed *vide* the impugned judgment dated 23.01.2023 and the judgment of the Trial Court was affirmed and maintained.

4. Mr. Aftab Alam Yasir, ASC for the petitioner-MR in Criminal Petition No. 143/2023, and Mr. M. Adeel Arshad, ASC for the petitioner-MYQ in Criminal Petition No.359/2023 have appeared and stated that the petitioners have falsely been implicated in the instant matter in respect of the alleged embezzlement of Rs.14,931,650/-. They stated that the accused have no role to play in respect of the said alleged embezzlement as the accused MR had given an amount of Rs.15,000,000/- to one Javed Akhter Bhatti (a co-employee, hereinafter

referred to as "**JAB**") for depositing the same in the State Bank of Pakistan ("**SBP**") on 27.10.2016, who if not deposited the said amount in SBP, then how could the accused be considered to have embezzled the said amount. They further submitted that at no point in time footage of the CCTV cameras was produced. They further stated that the averments made by the petitioners before the Preliminary Inquiry Committee and the final Fact-Finding Committee have totally been ignored by the Trial Court as well as by the High Court. They further stated that the relevant rules, as published in Post Office Manual, have also not been followed during the departmental proceedings against the petitioners. They further stated that there was some grudge by certain officers of the Department against the present petitioners, therefore, they were illegally accused of the alleged embezzlement. They further stated that both the petitioners enjoy a good reputation and that no departmental proceedings had ever been initiated against them, prior to the present matter. They further stated that the whole case against them is shrouded with mysteries and doubts, hence that the petitioners may be acquitted of the charges levelled upon them.

5. Raja Muhammad Shafqat Abbasi, DAG and Mr. Sarwat Durrani, ACC, FIA have appeared for the State and stated that both the accused were involved in embezzling a huge amount of Rs.14,931,650/-. They further stated that prior to taking action against the petitioners, not only a preliminary inquiry was conducted but afterwards a full-fledged Fact-Finding Committee was also constituted to probe in the present matter and thereafter accused-petitioners were found to be guilty of embezzling a huge amount and thereafter FIR was registered against them. They submitted that since the two accused persons were responsible in maintaining proper record in respect of department's

funds, which they have miserably failed to do so, hence the Trial Court as well as the High Court were correct in finding them guilty of the offences levelled against them. They finally submit that since concurrent findings of the Trial as well as the High Court are against them hence, they do not deserve any leniency as they have misappropriated and embezzled a huge State amount, therefore, convictions and the sentences awarded by the two Courts below may be affirmed.

6. Mr. Muhammad Aslam (PW-5) was called on Court's notice who has adopted the arguments advanced by the learned State counsel and has stated that the allegations levelled against the accused-petitioners have duly been proved and that concurrent findings of the two Courts below are against them, therefore, they do not deserve any leniency hence the convictions and the sentences awarded to them may be affirmed/upheld.

7. We have heard the learned counsel for the petitioners, and the learned counsel for the State. We have also perused the available record.

8. It may be noted that the petitioner, MR was granted bail on medical grounds *vide* order dated 04.04.2024. He has also appeared before us today, whereas MYQ is behind the bars since his arrest i.e. on 20.02.2023, after cancellation of his bail.

9. We first take the case of MR who has categorically stated that he handed over an amount of Rs. 15,000,000/- to JAB for depositing the said amount in the SBP on 24.10.2016 who allegedly did not deposit the said amount on that date and kept the same with him and stated that he deposited the said amount in SBP on 25.10.2016. It is quite strange to note at no point in time the aforementioned JAB was made

an accused, instead he was let off by the inquiry committee and MR was held responsible for misappropriating the amount. It has also come on the record that physical verification of the cash was conducted after two months. The form demonstrating the cash is also found to be defective as in the said form, it was stated that there were five *lac* notes of rupees five thousand each, which figure if calculated would run in billions of *rupees*. It is also quite strange on the part of the department that during preliminary inquiry and full Fact-Finding Inquiry, CCTV footage of the cameras was never produced so as to prove who exactly was present in the room at the given point in time. It is also a matter of record that the departmental inquiry was initiated two to three months after the incident which allegedly took place on 26.10.2016. It has also come on record that during the inquiry proceedings the witnesses had failed to point out the relevant rules and regulations, as per the Post Office Manual, with regard to the alleged misappropriation and embezzlement by the accused persons. It is also surprising to note that JAB to whom it was claimed by MR that he gave an amount of Rs. 15,000,000/- for deposit in the SBP and who claimed that he deposited the amount one day late in SBP was found to be not guilty by the inquiry committee. It is also strange to note that even after making requests by MR to let him cross-examine the witnesses, the same was not done.

10. Similar is the case of MYQ. The inquiry committee called the concerned Bank Managers who operate the bank account of both the accused persons and from these accounts it was evident that they hardly have any amount in their personal bank accounts so as to connect them with the alleged misappropriation, if any. It is also an interesting fact that Muhammad Irfan Latif, a member of the inquiry

committee, despite recording the confessional statement of JAB did not make the same part of the inquiry, rather he concealed the same. It was also revealed that before leaving the office on the date of the incident MYQ moved a proper application to his superior official for leave, as he was not feeling well on that date, which has very conveniently been ignored by the inquiry committee.

11. A few extracts of the depositions of various prosecution witnesses and the statements under section 342 Cr.P.C. are reproduced hereinbelow for the sake of brevity:

"PW-1 Asanullah, Assistant Deputy Director General

Muhammad Rashid accused never skipped from his duty till his arrest. I transferred Muhammad Yunas Qureshi accused from his position to other wing on his oral request. It is correct that all cheques were entered in the register of cheques by a clerk deputed for his purpose, therefore he is responsible for the same. It is correct that Yunas Qureshi was not held responsible by the inquiry officer regarding these three cheques. It is correct that cheque clerk comes under the subordination of Assistant Accounts Officer. I recommended disciplinary action against the cheque clerk for his negligence. Physical verification of the cash is carried out after two months. I do not remember the exact date of last verification of cash. Cash verification committee is constituted by Post Master General. The last verification of cash carried out before this occurrence does not indicate any deficiency in the cash. It is correct that I did not obtain any written permission from the senior officers but proceeded in accordance with law and relevant rules.

PW-2 Iftikhar Ahmed, Assistant Account Officer.

It is correct that departmental inquiry was initiated after 2/3 months of the incident took place on 26.10.2016.

PW-3 Muhammad Raza Mirza, Senior Post Master

It is correct that prior to this case, there is a litigation between me and Yunus Qureshi accused in NIRC Islamabad. It is correct that for the said reason, Yunus Qureshi accused raised objection regarding physical verification of the Treasury by me.

PW-4 Tauseef Ahmad, Junior Account Post Master

I also participated in the counting process of the cash. I do not remember that how much amount was counted by me but it was a joint exercise alongwith other participants.

PW-5 Muhammad Aslam Deputy Post Master General

I do not know who is the complainant of this case. It is not in my knowledge that there was a complaint regarding three cheques, which were not taken from treasury pass book. The notice was issued to the accused by member Irfan Latif with his signatures. I did not sign any such notices. I cannot show such notices issued to the accused MR First meeting of the committee was held in GPO Rawalpindi on 08.11.2016. No statement of allegations was delivered to the accused since it was a fact-finding inquiry only. It was in the light of a rule in the post office Manual volume-V, however I do not know the exact rule under which I proceeded in this case. I did not ask the accused persons to cross examine the witnesses. I do not remember how many witnesses I have recorded. The inquiry was concluded on 13.02.2017. I did not record that opportunity was given to the accused for cross examination. It is correct that Javed Akhter Bhatti was Deputy Senior Postmaster on the date of detection of fraud, he was also summoned in the inquiry. I did not ask Javed Akhter Bhatti regarding taking over of Rs.150,00,000/- on 24.10.2016 for deposit in State Bank of Pakistan. Two CCTV cameras are installed. I did not ask the Operator to join the inquiry and show the recording.

PW-6 Muhamad Irfan Latif Assistant Director Staff

There is no requirement to summon the witnesses, voluntarily stated the concerned officials/officers were examined. The accused were not allowed to cross examine those persons. The statements of witnesses were recorded in the absence of the accused. No statement of allegations was delivered to the accused. It is correct that two CCTV cameras are installed there. The CCTV footage is not included in the inquiry report.

PW-10 Danish Sarfraz, Inspector, PS FIA/ACC

Islamabad

I do not remember if I have prepared the site plan of place of recovery. It is correct that according to inquiry report the letter dated 31.01.2017 shows that the committee did not observe any fake entry during the past work verification of accounts. It is correct that I have also taken into possession the preliminary inquiry report conducted from 28.10.2016 to 01.11.2016 in the case of shortage of cash at GPO Rawalpindi by the Head Treasurer. It is correct that according to the findings of the report a sum of Rs:150,00,000/- was handed over to Javed Akhter Bhatti, the then Deputy Post Master Treasury by MR accused present in the court for the deposit of this amount into State Bank of Pakistan on 25.10.2016 which was not deposited and the same was not even deposited on the next date. I do not remember if I have joined the said Javed Akhter Bhatti into the inquiry or investigation. (The PW could not refresh his memory due to non availability of Police file). There were iron Safe in the treasury room. I have not sealed them with my seal so as to preserve them for the purpose of fixation of criminal liability upon the accused persons. It is correct that I did not seize the CCTV camera, voluntarily stated that the system was not working. I did inquire from Chief Post Master to produce before me the recording of CCTV footage, who told me that CCTV Cameras are not in working condition. I have not recorded the statement of PW-1 that as per his version CCTV Cameras were out of order.

Statement under section 342 MR:

I do not know who counted the cash on 27.10.2016 and at which time. The cash column suggests 5,00,000/- notes of Rs.5000/- which on the face of it was bogus. In the letter written by PW.1 to FIA there was no mention of my name. In the instant matter I should have been made the complainant rather I was nominated as an accused. In fact the PW.2 mislead PW.1 and in order to cover his mistakes levelled allegations against me. It was Javed Akhter Qureshi who did not deposit of Rs.15000000/- in the State Bank, but no concrete action was taken against him. In all the records produced before the inquiry committee, I have been found innocent and not guilty.

P- 69 Statement under section 342 Younas Qureshi:

Irfan Latif in his enquiry did not record the confessional statement of Javed Akhtar Bhatti but concealed the same. Javed Akhter Bhatti being an official of the Treasury Branch was not held responsible by any one whereas his confessional departmental statement was taken during inquiry proceedings but he was not made part of the inquiry. I have remained behind the bar for 26 months away from my family."

12. If all these facts are considered in juxtaposition it would reveal that the matter is shrouded with mysteries and doubts and even in the inquiry proceedings, as per their own Post Office Manual proper procedure has not been adopted, which has even been endorsed by the High Court in its impugned judgment.

13. In view of the above, we are of the view that the prosecution has failed to prove its case against the accused-petitioners beyond any shadow of reasonable doubt. Accordingly, both these petitioners are acquitted of the charges levelled against them by extending benefit of doubt. As a consequence, thereof, the judgments of the Trial Court dated 27.06.2019 and the High Court dated 23.01.2023 are hereby set

aside. Needless to state that petitioner, MYQ if not required to be detained in any other matter, then he shall be released forthwith. Since we have allowed both the petitions, the surety amount furnished by the petitioner-MR in the sum of Rs.50,000/- is also hereby discharged of his liability. Consequently, these petitions are converted into appeals and are allowed in the above terms.

14. These are the reasons of our short order dated 03.10.2025 which is reproduced as under:

"For reasons to be recorded later, these petitions are converted into appeals and they are allowed. The appellants Muhammad Rashid and Muhammad Younas Qureshi are acquitted from the charges framed against them by extending the benefit of doubt. Consequently, the judgments of the Trial Court dated 27.06.2019 and the High Court dated 23.01.2023 are set aside. In case the incarcerated appellant Muhammad Younas Qureshi is not required in any other matter then he shall forthwith be released. In case of appellant Muhammad Rqashid, his surety is discharged of his liability."

Islamabad
03.10.2025
Naseer

Not Approved For Reporting