

Form No: HCJD/C-121
ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Appeal No.09 of 2020

Iftikhar Ahmed
Vs
Rana Basharat, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
------------------------------	----------------------------	---

30-06-2020. Mr. Mujeeb ur Rehman Kiani, Advocate for the appellant.

Through this appeal Iftikhar Ahmed Khan son Sardar Muhammad Roshan Khan (hereinafter referred to as the **"Complainant"**) has challenged the acquittal handed down by the learned trial Court vide judgment, dated 10.12.2019 in favour of Rana Basharat son of Chaudhry Muhammad Khan (hereinafter referred to as the **"Respondent"**).

2. The facts, in brief, are that the Complainant filed a written complaint and pursuant thereto FIR No. 14, dated 13.01.2018 was registered at Police Station Karachi Company, Islamabad under sections 420, 468 and 471 of the Pakistan Penal Code, 1860 (hereinafter referred to as **"PPC"**). It was alleged that the Respondent had sold a vehicle and it was later

revealed that the registration book and other documents were forged/fake. It was further alleged that the Respondent had committed the offences of cheating and dishonestly preparing forged documents. The charge was framed on 07.04.2018. The prosecution produced four witnesses, while the Respondent preferred not to be examined under oath and, therefore, his statement under section 342 of the Criminal Procedure Code, 1898 (hereinafter referred to as "**Cr.P.C**") was recorded. On conclusion of the trial, the learned trial Court acquitted the Respondent vide the impugned judgment, dated 10.12.2019.

3. The learned counsel for the Complainant has been heard at length. He has mainly contended that the learned trial Court has misread/non read the evidence; section 44 of Cr.P.C has been misinterpreted and it could not have been taken into consideration prior to deciding the merits; the Respondent had obtained temporary release (superdari) of the vehicle from the competent court on the basis of forged documents and thus the forgery stood admitted and confirmed; the offences of cheating and dishonestly preparing forged documents were proved beyond a reasonable doubt and, therefore,

the Respondent could not have been acquitted from the charge.

4. The learned counsel has been heard and the record perused with his able assistance.

5. A plain reading of the complaint submitted by the Complainant, which has been reproduced in the FIR, clearly shows that the sale of the vehicle and payment of consideration have not been denied. The agreement, dated 05.01.2018, Ex-PA was executed with the brother of the Complainant, namely Raja Aftab and the latter had passed away on 19.01.2018. The prosecution had brought on record the transaction whereby the Respondent had become the owner of the vehicle. The prosecution confirmed that the vehicle was purchased by the Respondent on the basis of the same documents which were shown to the brother of the Complainant. It is, therefore, obvious that the Respondent was not the first purchaser of the vehicle. The prosecution could not bring on record any material to establish beyond a reasonable doubt that forgery or tempering with the documents was committed by the Respondent. The prosecution was not able to prove its case against the Respondent. The learned trial Court after taking the entire evidence into consideration passed a detailed judgment

which has been found to be well reasoned and does not suffer from any legal infirmity.

6. It is settled law that presumption of "double innocence" is attached where an order of acquittal of an accused is challenged. The presumption of "double innocence" can be rebutted if it could be shown that the order was passed as a result of misreading or non-reading of evidence or the same was patently illegal. It is also settled law that the appellate Court would not interfere with acquittal merely because on reappraisal of evidence a different conclusion or opinion could be formed. The finding of acquittal can only be reversed, upset or disturbed in exceptional circumstances such as when the same are perverse, shocking, alarming, suffering from error of jurisdiction or misreading or non-reading of evidence. Reliance is placed on case of Muhammad Zaman Versus The State and others [2014 SCMR 749], Muhammad Rafique Versus Muhabbat Khan and others [2008 SCMR 715], Jehangir Versus Amin Ullah and others [2010 SCMR 491], Mst. Askar Jan and others Versus Muhammad Daud and others [2010 SCMR 1604], Mst. Sughra Begum and another Versus Qaiser Pervez and others [2015 SCMR 1142].

7. For the above reasons and keeping in view the principles and law highlighted in the

aforementioned judgments, this Court is satisfied that no interference is required with the well reasoned judgment, dated 10.12.2019 rendered by the learned trial Court. The appeal is, therefore, without merit and accordingly dismissed.

(CHIEF JUSTICE)

Saeed.