

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE SYED MANSOOR ALI SHAH
MR. JUSTICE QAZI MUHAMMAD AMIN AHMAD

Criminal Petition No.540-L OF 2021

(Against the order dated 31.03.2021 passed by the Lahore High Court of Lahore in Crl. Misc. No.19186-B/2021)

Syed Husnain Haider

...Petitioner(s)

VERSUS

The State and another

...Respondent(s)

For the Petitioner(s): Syed Tayyab Nasir Mehmood, ASC
(video link at Lahore)
along with Syed Husnain Haider, in
person *(at Islamabad)*

For the Respondent(s): Ch. Muhammad Maqsood Butter, ASC

Date of Hearing: 14.07.2021

ORDER

Qazi Muhammad Amin Ahmed, J.- In a family breach, the petitioner has been blamed by the complainant, no other than a close relative, to have issued him two bank cheques, to the tune of rupees one crore forty-seven lac, towards fulfillment of a financial obligation, arisen out of a botched sale transaction relating to some piece of land, bounced upon presentation; avoiding arrest for a considerable span of time, he has finally been declined judicial protection by a learned Judge-in-Chamber of Lahore High Court vide order dated 31.3.2021 to argue before us that in the absence of any subsisting '*financial obligation*' he had handed over the cheques to his brother Syed Zulqarnain as security instrument for the settlement of family feud, fraudulently taken over by the complainant, cancellation whereof, is being pursued through a declaratory suit, *sub judice*

in a Civil Court at Chunian till date, a position vehemently contested by the learned Law Officer with the assistance of counsel for the complainant.

2. Heard. Record perused.

3. The impugned instruments admittedly belonged to the petitioner; these carry a wording on their back as "*shorty*", however, the learned counsel despite his best attempt has not been able to point out, even obliquely, any clause of contract/agreement or any portion thereof, in performance whereof, the petitioner purportedly stood surety. Supported by statutory presumption of being a valid instrument, a drawer cannot ward off the consequences of its failure through bald plea of being an unsuspecting surety. Even otherwise, within the family fold in a close degree, the petitioner has not been able to point out any *mala fide* or animus, possibly lurking behind his long due arrest in a non-bailable/cognizable offence, a *sine qua non* to divert the usual course of criminal law. View concurrently taken by the courts below being well within the remit of law calls for no interference. Petition fails. Leave declined.

Judge

Judge

Judge

ISLAMABAD

14th July, 2021

Azmat/*

"Not approved for Reporting"

