

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CRIMINAL APPELLATE JURISDICTION)**

Present:

Mr. Justice Md. Bashir Ullah

Criminal Appeal No. 5807 of 2023

In the matter of:

An Appeal under Section 10(1)(a) of the
Criminal Law Amendment Act, 1958.

And

In the matter of:

Jugal Chandra Pramanik

...Convict-Appellant

-Versus-

The State and another

...Respondent

Mr. Md. Rasheduzzaman Bosunia with
Ms. Bulbul Rabeya Banu, Advocates

...For the Appellant

Mr. Shahjada-Al-Amin Kabir, Advocate

...For the Respondent No.2

Mr. S.M. Aminul Islam Sanu, D.A.G with
Mr. Md. Nasimul Hasan, A.A.G with
Mr. Md. Golamun Nabi, A.A.G and
Ms. Farhana Abedin, A.A.G and

...For the State

**Heard on: 11.01.2026, 19.01.2026,
20.01.2026, 01.02.2026, 01.03.2026 and
04.03.2026**

Judgment on: 11.03.2026

This appeal preferred under Section 10(1)(a) of the
Criminal Law Amendment Act, 1958 is directed against the

judgment and order dated 28.05.2023 passed by the learned Divisional Special Judge, Dhaka in Special Case No. 118 of 2017 arising out of Belabo (Narsingdi) Police Station Case No. 10 dated 25.04.2010 corresponding to G.R No. 47 of 2010 convicting the appellant under Sections 409 and 109 of the Penal Code with Section 5(2) of the Prevention of Corruption Act, 1947 and sentencing him under Section 5(2) of the Prevention of Corruption Act, 1947 to suffer simple imprisonment for 05 (five) years with a fine of Taka 20,000/- in default to suffer simple imprisonment for 06(six) months.

The facts relevant for disposal of the appeal, in short, are that the Upazilla Education Officer, Belabo, Narshingdi, lodged a First Information Report (FIR) with the Belabo Police Station, alleging *inter alia* that on 08.04.2010, the Manager, Sonali Bank Limited, Belabo Branch, Narshindi, contacted the informant over mobile phone and reported that one Abdul Majid, a Lower Divisional Clerk, had presented a cheque in the amount of Taka 25,000/-(twenty five thousand) for immediate cash encashment. The manager asked him whether he had issued the cheque, and he confirmed that he had not issued any cheque for cash encashment. He subsequently requested the Manager to withhold payment of

the cheque and detain Abdul Majid until his arrival. On that day, he went to the bank and upon inspection, it was discovered that the cheque was an “account pay” instrument issued in favour of a school for the sum of Taka 5,000/-(five thousand). It appeared that Abdul Majid had tampered with the instrument by inserting the digit ‘2’ before ‘5’ and thereby fraudulently converting the value from Taka 5,000/-(five thousand) to Taka 25,000/-(twenty five thousand). On further enquiry a broader pattern of malfeasance was revealed the accused had allegedly tampered with 26 numbers of cheques and misappropriated a total of Taka 4,00,000/-(four lac) through unauthorized bank withdrawal and committed forgery. When confronted, Abdul Majid admitted to the allegations and provided an undertaking to refund the misappropriated funds. Subsequently, Abdul Majid deposited Taka 4,00,000/-(four lac) back into the relevant bank account between 08.04.2010 and 13.04.2010. The matter was then formally reported to the higher authorities. It is suspected that other individuals may have complicit in the fraudulent withdrawal of account payee cheques, which was a matter subject to further investigation. Due to the absence of the accused starting 11.04.2010, a timely interrogation was not possible. Investigation

further suggests that between 11.07.2007 and 08.04.2010, the accused misappropriated the amount totaling Taka 4,00,000/- (four lac) and Taka 4,50,000/- (four lac fifty thousand) during his tenure. Earlier, the accused committed a similar offence for which penalties were imposed upon him. Hence, the case was initiated.

On closure of the investigation, Md. Akbar Ali, Deputy Assistant Director, Anti-Corruption Commission, Dhaka-2, submitted charge sheet No. 55 dated 28.05.2012 against Md. Abdul Majid, Md. Anwar Hossain and Jugal Chandra Pramanik under Sections 409 and 109 of the Penal Code with Section 5(2) of the Prevention of Corruption Act, 1947.

Subsequently, the case was transferred to the learned Divisional Special Judge, Dhaka and registered as Special Case No. 118 of 2017. On taking cognizance, the charge was framed under Sections 409 and 109 of the Penal Code with Section 5(2) of the Prevention of Corruption Act, 1947, on 30.09.2018, and the same was read out and explained to the accused when he pleaded not guilty and claimed to be tried.

In the course of the trial, 09 prosecution witnesses were examined while the defence examined none. The accused was examined under Section 342 of the Code of

Criminal Procedure drawing attention to the evidence adduced and he once again pleaded innocence and submitted a written statement.

Upon conclusion of trial and hearing the parties the learned Divisional Special Judge, Dhaka convicted the accused under Sections 409 and 109 of the Penal Code with Section 5(2) of the Prevention of Corruption Act, 1947 and sentenced him under Section 5(2) of the Prevention of Corruption Act, 1947 to suffer simple imprisonment for 05(five) years with a fine of Taka 20,000/- in default 06(six) months simple imprisonment.

Being aggrieved by and dissatisfied with the order of conviction and sentence the convict preferred this instant Criminal Appeal before this Court. This Court enlarged the appellant on bail for 06(six) months on 21.06.2023.

Mr. Rasheduzzaman Busunia appearing on behalf of the appellant, Jugal Chandra Pramanik contends that PW6, informant did not implicate the convict-appellant in any manner either in the FIR or in his deposition. PW6 stated in his cross-examination that, ‘আমি ফৌজদারী কার্যবিধির ১৬১ ধারার জবানবন্দীতেও আসামী আব্দুল মজিদ ছাড়া অন্যদের নাম উল্লেখ করিনি।’

He further contends that the name of the appellant is neither in the FIR nor any witness stated that he tempered 26 cheques and misappropriated the said money and thus the prosecution hopelessly failed to prove the case beyond all reasonable doubt.

He contends that in passing a cheque in a bank many officers are involved including bank manager but none of them has been made accused except two bank officials.

He further contends that PW2 and PW3 did not mention any involvement of Jugal Chandra Pramanik.

The learned Advocate contends that the appellant was joint custodian of Sonali Bank Limited, Belabo branch and he was not liable for making payment against cheque and at the time of the occurrence junior cashier was Md. Nurul Islam, but he was not made accused as he expired after occurrence and as such the appellant is entitled to be acquitted.

In support of his contention he refers to the decisions passed in the case of *Mozibur Rahman (Md) Vs. State*, reported in 6 BLC(AD)127 and *A K M Mohiuddin Vs. State*, reported in 50 DLR(1998)447.

Per contra, Mr. Sahjada Al Amin Kabir, learned Advocate appearing on behalf of the respondent No. 2, contends that the

appellant is liable for the offence as he was authorized to keep all cheques under his custody and he was well aware of this incident.

He further contends that in the investigation, it was revealed that the convict-appellant, who was the joint custodian of the Bank, abetted the principal accused, Abdul Majid in encashing 26 Account payee cheques, although there is no Banking Rule to pay in cash of the Account Payee cheques.

He next contends that the convict-appellant being the joint custodian of the respective branch of the Bank, was under duty to protect cash, cheques, securities, deposit receipts and other valuables, ensure proper storage in vaults or secure custody systems. He is also liable to follow banking regulations, ensure custody operations complying Bangladesh Bank guidelines. The joint custodian of the bank is also under obligation to maintain accurate registers of the deposited cheques, other securities and documents and record movement of assets. He was also under obligation for ensuring reconciliation of physical and book records and under obligation to exercise reasonable care and diligence. If a custodian of a bank negligently losses cash of the bank, he is personally liable for the offence committed.

He further contends that if the convict-appellant, joint custodian of the bank, was being vigilant in the course of business, he could identify the tampered cheques in question and could protect the assets of the customers. In spite of that, the convict-appellant maintained the record of the tampered cheques in the record as of his joint responsibilities and didn't notify to the Branch Manager, otherwise, the series of the offence, could have been avoided.

He next contends that the convict-appellant cannot avoid the responsibility of protecting the customers assets, in the instant case, cash of Taka 8.5 lacs, from losing. Therefore, the sentence imposed by the trial Court is correct and liable to be affirmed. Finally he prays for dismissal of the appeal.

I have considered the submissions of the learned Advocates for both sides, perused the impugned judgment and order passed by the trial Court and the materials on records.

To consider the merit of the case and analyze the facts, let me review the evidence of the prosecution's case.

PW 1, Md. Osman Gani, Higher graded Assistant, Upazilla Education Office, Narshingdi, who is a seizure list witness. He

proved the seizure list as Exhibit 1 and proved his signature as Exhibit 1/1. He was not cross-examined.

PW 2, Md. Sahidullah, Ex Manager, Sonali Bank Ltd., Belabo Branch, Narshingdi, who was a seizure list witness. Seized articles were kept under his custody. He proved the seizure list and his signature as Exhibit 1 ka and 1/ka/1.

PW 3, Md. Abdul Hai, Ex-Senior Executive Officer, Sonali Bank Ltd., Principal Office, Narshingdi, deposed that he investigated the matter. He visited the concerned bank on 11.05.2010 to investigate into the matter of misappropriation done by Mr. Anwar Hossain, Officer Cash. He found that Abdul Majid had withdrawn Taka 5,77,500/- (five lac seventy seven thousand five hundred) by 26 cheques by practising fraud. Abdul Majid tampered with 26 cheques and thus misappropriated Taka 4,00,000/- (four lac) and subsequently he deposited Taka 4,00,000/- (four lac) to the concerned account of the bank. On query, Officer (cash), Md. Anwar Hossain admitted to the payment of the alleged cheques and informed that he arranged for the adjustment of Taka 4,00,000/- (four lac) within 3 days. After the closure of the investigation, he submitted an investigation

report to the Deputy General Manager on 16.05.2010. He proved the copy of the report as Exhibit 2.

In cross-examination, he deposed that after the adjustment of money, the accused were reinstated in the service of the bank.

PW 4, Md. Akmal Ali, Assistant Sub Inspector, Anti-Corruption Commission, Head Office, Dhaka is a seizure list witness who proved his signature in the seizure list as Exhibit 1/2.

PW 5, Md. Saidur Rahman Bhuiya, Inspector of Police, PBI, Dhaka-District recorded the FIR and he proved the FIR as Exhibit 5 and his signature as Exhibit 5/1. In cross-examination, he stated that it was recorded in the FIR that a delay was occurred in lodging the FIR.

PW 6, Md. Mozibur Rahman, Education Officer, Department of Primary Education, Mirpur, Dhaka, is the informant of the case. He stated that on 08.04.2010, the Manager, Sonali Bank Limited, Belabo Branch, Narshindi, contacted him via mobile phone and reported that Abdul Majid, Lower Divisional Clerk of his office, had presented a cheque amounting Taka 25,000/- (twenty five thousand) for immediate cash encashment. The manager asked him whether he had issued the cheque, and he confirmed that he had not issued any cheque for

cash encashment. He subsequently requested the Manager to withhold payment of the cheque and to keep Abdul Majid detained until his arrival. On that day at 5:00 pm, he went to the bank and upon inspection, it was discovered that the cheque was an “account pay” instrument issued in favour of a school for the sum of Taka 5,000/- (five thousand). It appeared that Abdul Mojid had tampered with the instrument by inserting the digit ‘2’ before the ‘5’ and thereby fraudulently converted the value from Taka 5,000/- (five thousand) to Taka 25,000/- (twenty five thousand). Further inquiry revealed a broader pattern of malfeasance; the accused had allegedly tampered with 26 cheques and misappropriated a total amount of Taka 4,00,000/- (four lac) through unauthorized bank withdrawal and committed forgery. When confronted, Abdul Majid admitted to the allegations and provided an undertaking to refund the misappropriated funds within 3 days. Subsequently, Abdul Majid deposited Taka 4,00,000/- (four lac) back into the relevant bank account between 08.04.2010 and 13.04.2010. The matter was then formally reported to the higher authorities. He further made an investigation and found that Abdul Majid misappropriated more Taka 4,50,000/- (four lac fifty thousand). Thus, he

misappropriated Taka 8,50,000/- (eight lac fifty thousand) from 11.07.2007 to 08.04.2010. He lodged the FIR with the Belabo Police Station.

He proved the FIR as Exhibit 5Ka and his signature Exhibit 5(ka)/1.

In cross-examination, he stated that he did not mention the name of other accused except Abdul Majid in the statement made under Section 161 of the Code of Criminal Procedure.

PW 7, Md. Abul Kashem Sarkar, Officer, Sonali Bank Ltd., Poradia Bazar Branch, Narshingdi, who is a seizure list witness proved the seizure list as Exhibit 1(ka)/2 and his signature as Exhibit 1(ka)/2.

PW 8, Zahirul Islam, Manager, Sonali Bank, Belabo Branch, Narshingdi, who produced the alamats (kept in the bank) before the trial Court as Exhibit 6 series.

In cross-examination, he stated that he brought the alamats from the almirah of the bank as per the order of the Court.

PW 9, Md. Akbar Ali, Ex-Assistant Director, Anti-Corruption Commission, Head Office, Dhaka, the investigating officer submitted the charge sheet. He proved the sanction letter as Exhibit 7.

He stated that the cheques were issued in favour of 78 primary school of Belabo Upazilla and were kept under custody of the accused Abdul Majid. The cheques were issued for handing over to the Head masters of the primary schools. But Abdul Majid had withdrawn Taka 5,77,500/- (five lac seventy seven thousand five hundred) instead of Taka 1,77,500/- (one lac seventy seven thousand five hundred) from the Sonali Bank by 26 A/C payee cheques from 01.03.2010 to 08.04.2010. Later, he deposited Taka 4,00,000/- (four lac) to STD A/C No. 21. He further stated that it is transpired in the investigation that 26 cheques were presented for encashment at that time when the accused, Md. Anwar Hossain was in charge of the officer (cash). He debited and passed the cheques and put a seal for cash payment, violating the rules. At that time, the accused, Jugal Chandra Pramanik, was Joint Custodian (cash).

In cross-examination, he deposed that after the adjustment of money, the accused were reinstated in the service of the bank.

It appears from the record that co-accused, Anower Hossain submitted a written statement at the time of examination under section 342 Of the Code of Criminal Procedure wherein he admitted as follows:

“উপরোক্ত নম্বর মামলার ঘটনাস্থল সোনালী ব্যাংক লিমিটেড, বেলাবো শাখায় আমি ০৮/০১/২০১০ ইং হইতে ৩১/০৫/২০১০ ইং তারিখ পর্যন্ত কর্মরত ছিলাম। অফিসার ক্যাশ হিসেবে এটাই আমার প্রথম দায়িত্ব ছিল। উপরোক্ত নম্বর মামলার ঘটনার সময়ে সোনালী ব্যাংক লিমিটেড সহ অধিকাংশ ব্যাংকের কার্যক্রম ছিল নিম্নরূপ: কোন গ্রাহক টাকা উঠাইতে চাহিলে তাহার চেক টোকেন ক্লার্কের নিকট জমা দিতেন। টোকেন ক্লার্ক চেকটি জমা রাখিয়া গ্রাহককে একটি টোকেন দিতেন। অতঃপর টোকেন ক্লার্ক চেকটি লেজার কাউন্টারে লেজার কিপারের নিকট জমা দিতেন। চেকটি ডেভিট করে ‘bM` c` vb0` সীল দিয়া পাসিং অফিসারের নিকট জমা দিতেন। পাসিং অফিসার চেকটি পাশ করে ক্যাশিয়ারের নিকট প্রেরণ করিতেন।

... ম্যানেজার ভাউচারগুলি পাওয়ার পর সুচারুরূপে চেকিং করিয়া রজিন উড পেন্সিল দিয়া ভাউচারের উপর দাগ টানিয়া দিতেন। শুধু তাই নহে, তিনি লেজার থেকে টাকা আত্মসাত, ফেরত ও অনাদায়ী থাকে সেই লেজারের নাম STD লেজার যাহা ম্যানেজার সাহেব প্রতিদিন চেকিং করে স্বাক্ষর করিতেন।

আমি নিম্নস্বাক্ষরকারীর পূর্ব অভিজ্ঞতা না থাকায় ‘A/C Payee’ চেক নগদ প্রদানের কোন নিয়ম না থাকা সত্ত্বেও নরসিংদী উপজেলা শিক্ষা অফিস এর নিম্নমান সহকারী আঃ মজিদ লেজার কিপারকে ভুল বুঝাইয়া ‘নগদ প্রদান’ সীল দিয়া পাসিং অফিসার এর নিকট পাঠাইতেন। পাসিং অফিসার চেক পাশ করিয়া দেওয়ায় উক্ত আঃ মজিদ বিভিন্ন তারিখে ৪,৪০,০০০/- টাকা উত্তোলন করে।”

It appears from the statement made by another accused namely Md. Anower Hossain that there was no involvement of the

appellant Jugal Chandra Pramanik in passing of a cheque. Neither the appellant was passing officer or ledger keeper.

PW 3, Mohammad Abdul Hai investigated into the matter and after closure of investigation he submitted an investigation report. In the investigation report, no allegation or involvement of the appellant, Jugal Chandra Pramanik was found. PW3 proved the investigation report as exhibit No. 3.

Md. Abdul Hye, Senior Executive Officer, Sonali Bank Ltd., Principal office, Narsingdi was examined as PW3 and he stated in his examination-in-chief that “তাছাড়া অফিসার (ক্যাশ) আনোয়ার হোসেনকে অনিয়মিত ভাবে চেকের টাকা পরিশোধের ব্যাপারে জিজ্ঞাসা করা হলে তিনি তার সত্যতা স্বীকার করেন এবং টাকা পেমেন্ট করার ৩ দিনের মধ্যে ৪,০০,০০০/- টাকা আদায় করে সংশ্লিষ্ট হিসাবে জমা করার ব্যবস্থা করেন বলে জানিয়েছেন।” In the above deposition PW3 did not implicate the convict appellant Jugal Chandra Paramanik in any manner.

The authority of Sonali Bank suspended the appellant from his service and after enquiry the authority found no specific allegation against the appellant and hence they withdrawn the suspension order and reinstated the appellant in service on 13.10.2014.

The appellant in his written statement provided under section 342 of the Code of Criminal Procedure stated that “আমি উক্ত ব্যাংকে যুগ্ম জিম্মাদার হিসেবে থাকা অবস্থায় আমার কাজ ছিল ব্যাংকের নির্দিষ্ট ভল্টে যত পরিমাণ টাকা থাকে তাহা খোলা এবং বন্ধ করার জন্য ম্যানেজার এবং আমার নিকট আলাদা চাবি থাকত। প্রত্যেকদিন আমি এবং ম্যানেজার একত্রে মিলিত হইয়া ভল্টে চাবি ঢুকাইয়া ভল্ট খুলি। তারপর কিছু পরিমাণ টাকা সহকারী ক্যাশিয়ার কে দেই। উক্ত ক্যাশিয়ার সারাদিন লেনদেন করার পর ক্যাশ মিলাইয়া দিলে পুনরায় আমি এবং ম্যানেজার যুগ্ম ভাবে চাবি দিয়া ভল্টে তালাবদ্ধ করিয়া রাখি। এই জন্য আমি যুগ্ম জিম্মাদার...”

Upon scrutiny of the totality of evidence adduced by the prosecution witnesses it is revealed that 9 witnesses were examined but none mentioned or uttered the name of the appellant, Jugal Chandra Pramanik in their evidence except PW9.

Md. Akbar Ali, Investigating Officer as PW9 implicated the appellant stating in his examination-in-chief which run as follows:

তদন্তে আগত আসামী মোঃ আনোয়ার হোসেন, সোনালী ব্যাংক লিঃ, বেলাব শাখায় অফিসার ক্যাশ হিসেবে দায়িত্ব পালনকালে উক্ত একাউন্ট পে-ই ২৬টি চেক এবং চেক নং-৯৩৬৯৫৪৯ তারিখঃ ২৩/৪/২০০৯ টেম্পারিং করে নগদায়নের জন্য জমা প্রদান করেন। একাউন্ট পে-ই চেক নগদায়ন করার কোন নিয়ম না থাকা সত্ত্বেও আসামী মোঃ আনোয়ার হোসেন উক্ত চেকগুলো নগদায়নের উদ্দেশ্যে নিজেই ডেবিট করে পাশ করেন এবং নগদ প্রদান করুন সীল মোহর দিয়ে ক্যাশ শাখায় প্রেরণ করেন। তদন্তে আগত আসামী যুগল চন্দ্র প্রামানিক ঘটনার সময় যুগ্ম জমাদার ক্যাশ হিসেবে সোনালী ব্যাংক লিঃ, বেলাব

শাখায় কর্মরত ছিলেন। তিনি উল্লেখিত বিতর্কিত চেকগুলো নগদ প্রদানের কোন নিয়ম না থাকা সত্ত্বেও আসামী আব্দুল মজিদকে তা নগদায়নে সহায়তা করে দন্ডনীয় অপরাধ সংঘটন করেছেন।

Upon examining the above-mentioned evidence, it is not found that how the appellant-Jugal Chandra Pramanik abetted the principal accused Abdul Mazid in committing the offence alleged.

Considering the gravity of the alleged offence and the facts and circumstances of the case I am of the view that the judgment and order of conviction and sentence, so far as it relates to the appellant is liable to be set aside.

In the result, the appeal is allowed.

The judgment and order dated 28.05.2023 passed by the learned Divisional Special Judge, Dhaka in Special Case No. 118 of 2017 arising out of Belabo (Narsingdi) Police Station Case No. 10 dated 25.04.2010 corresponding to G.R No. 47 of 2010 so far as relates to the appellant namely Jugal Chandra Pramanik is hereby set aside.

The appellant is acquitted of the charge leveled against him.

The convict-appellant is released from the bail bond. Send down the lower Court's records (LCR) at once. Communicate the judgment and order to the Court concerned forthwith.

(Md. Bashir Ullah, J)

Md. Ariful Islam Khan
Bench Officer