

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**  
**Criminal Misc. Appln. No. 915 of 2023**

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicant	: Fahad Hashim son of Habib Hashim, Through Mr. Abdul Qayyum Abbasi, advocate
	<b>Versus</b>
Respondent 5-C	: Abdul Rauf son of Abdul Aleem, Compliance Manager (JS Global), Through Mehmood A. Qureshi, advocate.  The State, through Mr. Muhammad Mohsin Mangi, Assistant Prosecutor General, Sindh.
Date of hearing	: <b>24.07.2025.</b>
Date of order	: <b>07.08.2025.</b>

**ORDER.**

Through this application (M.A. No.10084 of 2025) has been filed by respondent No.5-C through his counsel for seeking recall of the order dated 11.07.2025 with the following prayers as under:-

- “1. Recall the order dated 11-07-2025, passed without notice to the respondents;
2. Restore the order dated 12-09-2023 passed by the learned Judicial Magistrate; and
3. Pass any other order(s) deemed just and proper in the circumstances of the case.”

2. The learned counsel for respondent No.5-C submits that the order dated 11.07.2025 was passed by this Court without issuing notice to respondent No.5-C and also without giving him an opportunity of hearing on the urgent application bearing MA No.9526 of 2025, whereby the order dated 12.09.2023 passed by the learned VII<sup>th</sup> Civil Judge and Judicial Magistrate, Karachi (South) was set-aside; that the learned Judicial Magistrate had passed a reasoned and speaking order dated 12.09.2023, after hearing all concerned parties including the Investigating Officer, the complainant, the complainant’s private counsel, the learned defence counsel and the learned Assistant District Public Prosecutor (ADPP); that after considering the arguments and the material on record, the

learned Magistrate concluded that the offence alleged in the FIR was not prima facie made out, and accordingly passed the said accordingly; that the underlying dispute pertains to a commercial transaction between a securities broker (JS Global) and its customer (The applicant) in relation to securities trading, which squarely falls within the exclusive domain and jurisdiction of the Securities Act, 2015, and the Securities and Exchange Commission of Pakistan Act, 1997; that the respondents have filed all relevant documents on the court record alongwith their statement, supporting the position taken during the investigation; that however, the respondents were condemned unheard by the interim order dated 11-07-2025, which has caused serious prejudice and adversely affecting their legal rights; that the order dated 11-07-2025 appears to have been obtained by the applicant through misrepresentation and suppression of material facts, thereby misleading this Court; that the only legal issue raised in the Criminal Misc. Application is whether, in light of the Securities Act, 2015, an FIR can be registered in respect of a dispute falling within its purview; that it is a settled principle of law that no adverse order should be passed without affording an opportunity of hearing the affected party, particularly when the impugned order of the learned Judicial Magistrate was passed after due process; that it is respectfully prayed that the Criminal Misc. Application may be decided on merits after hearing all interested parties, in the interest of justice and in accordance with Article 10-A of the Constitution of Pakistan. He lastly prays for recalling the order dated 11.07.2025 passed by this Court.

3. On the other hand, learned counsel for the applicant and the learned Assistant Prosecutor General, Sindh oppose the request for recalling the order dated 11.07.2025, passed by this Court and they submit that this Court has rightly suspended the operation of the order dated 12.09.2023, passed by the learned VII<sup>th</sup> Civil Judge and Judicial Magistrate, Karachi (South); that the learned Judicial Magistrate approved the final report under "C" Class and dispose of the FIR accordingly.

4. I have heard the arguments of the learned counsel for the parties at length and perused material available on record.

5. Though the case was argued before this Court and was also fixed for hearing, it is noted that the application bearing M.A No.10084 of 2025, filed by the learned counsel for respondent No.5-C for recalling the order dated 11.07.2025, was required to be heard and decided first before proceeding further in the matter. Therefore, this order shall be confined only to the extent of the said M.A. While going through the order passed by this Court, it transpired that the learned counsel for the respondent No.5-C in whose favour the impugned order was passed by the learned Judicial Magistrate, was in fact never heard, which constitutes to be a material illegality. Although the counsel for the respondent No.5 had already filed his power before this Court on 28.12.2024, but no intimation notice was given to him before passing of suspension order. Despite his continuous presence before this Court, as reflected in the case diaries in the case in hand, the order was passed on an urgent application without notice to respondent No.5-C' which ought not to have happened. In fact a notice was required to be issued to the counsel for the respondent, such was against the maxim of *audi alteram partem*, (no one should be condemned unheard) and also infringes Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973, which guarantees the right to a fair trial.

6. Without touching upon the merits of the instant Criminal Misc. Application, which shall remain pending adjudication and would be heard on its own merits. I, allow the present application bearing MA No.10084 of 2025 filed by the learned counsel for respondent No.5. Accordingly, the order dated 11.07.2025 is recalled, as is the order suspending the operation of the impugned order dated 12.09.2023.

The matter is adjourned to a date in office.

**JUDGE**