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IN THE HIGH COURT OF SINDH, KARACHI  
(Criminal Jurisdiction)

Cr. Revision Appl. No. 170 of 2022

22.06.2022

*[Signature]*  
Applicant

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Dr. Muhamnad Tayyab  
Son of Muhamnad Rahim  
Resident of H. No. F-10, Madho Goth,  
Muhalla Fareed, Gulshan-e-Iqbal, Karachi.

VERSUS

1. The State
  2. Special Judge Anti-Corruption (Provincial) Karachi
- Respondents

CRIMINAL REVISION APPLICATION UNDER  
SECTION 435 & 439 I Cr.P.C.



# THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No.170 of 2022  
(Dr. Muhammad Tayyab vs. The State)

Present: Mr. Justice Jan Ali Junejo

For Applicants: Mr. Sarfaraz Ali Metlo, learned advocate  
For State: Mr. Mumtaz Ali Shah, A.P.G. Sindh.  
Date of hearing: 06-03-2025  
Date of Judgment: 25-03-2025

## JUDGMENT

Jan Ali Junejo, J.-- The present Criminal Revision Application has been filed by the Applicant (accused), Dr. Muhammad Tayyab, challenging the Order dated 28.04.2022 (here-in-after referred to as the *Impugned Order*) passed by the Court of learned Special Judge Anti-Corruption (Provincial), Karachi (here-in-after referred to as the learned *Trial Court*) in Special Case No.34 /2020 (The State vs. Dr. Muhammad Tayyab Umrani), whereby the application under Section 249-A, Cr.P.C. filed on behalf of the Applicant for acquittal was dismissed.

2. FIR No. 01/2020, registered at P.S. ACE-South, Karachi, by Complainant Inspector Zahid Hussain Mirani of ACE Sindh, alleges that Dr. Muhammad Tayyab Umrani engaged in dual government employment fraudulently from 1998 to June 2017, concurrently working at SESSI and the Sindh Health Department





while drawing salaries and benefits from both. The case, authorized by ACC-1 Sindh following a 04.12.2019 meeting and an enquiry into Complaint No. GO-83/2019, originated from a 12.06.2019 report by the Secretary of Health to the Chief Minister. Audit findings and departmental investigations confirmed the illicit dual employment, resulting in a financial loss of Rs. 7,45,32,000 to the public exchequer, for which Dr. Umrani is liable for recovery. The FIR asserts collusion with SESSI officers, highlighting fraudulent intent and ulterior motives that caused substantial public funds misappropriation. Charge was framed against the Applicant who did not plead guilty and claimed to be tried. During course of trial, the prosecution examined the Complainant namely Zahid Hussain Mirani, ACE, Sindh, who produced Letter of Additional Director (Legal), for Director ACE Sindh, addressed to the Complainant at Ex: 03/A; Letter of SO(VIII) of Chief Minister's Secretariat addressed to the Chairman, E&ACE Sindh, at Ex: 03/B; Summary of the Secretary Health sent to the Chief Minister Sindh, at Ex: 03/C; attested copy of the minutes of the said meeting of ACC-I, at Ex: 03/D; the Letter dated 12-12-2019 issued by Director ACE Sindh to lodge FIR against Dr. Tayyab Umrani and hold open inquiry against Dr. Mumtaz Ali Sheikh as Ex: 03/E; FIR at Ex: 03/F; Receiving copy of the said letter at Ex: 03/G; the letter dated: 08-01-2020 issued by the Complainant to the Commissioner





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SESSI seeking record at Ex: 03/H; Reminder to the Secretary, Health Department, Govt. of Sindh Karachi dated: 17.01.2020 seeking relevant record for investigation at Ex: 03/I; Covering Letter of SO-I, Health Department at Ex:03/J; attested copy of CNIC of accused at Ex:03/K; attested copies of his Pay Slips at Ex:03/L, Ex:03/M & Ex:03/N; Covering Letter of SO-I, Health Department Govt. of Sindh dated 24-06-2020 at Ex:03/O; attested copy of Appointment Order of accused at Ex:03/P and attested copy of his Charge Report at Ex:03/Q; Covering letter of Accounts Officer Health-I, Accountant General Sindh dated 09-07-2020 at Ex:03/R; the attested copy of the Salary Statement of accused at Ex:03/S (03 leaves); Original salary bills of accused Dr. Tayyab Umrani issued by, Sessi w.e.f. February 2015 to November 2016, except October 2015, whose carbon copy is produced at Ex:3/T(1) to 3/T(22); Salary bills of accused from March 2017 to June 2017 issued by, Sessi at Ex: 3/T(23) to 3/T(26); the letter of Bank Manager at Ex:03/U; Receiving copy of the reminder dated: 06-02-2020 at Ex:03/V; and the Letter dated 03-02-2020 at Ex:03/W respectively.

3. The learned counsel for the Applicant has argued that the applicant is an innocent and respectable citizen falsely implicated in the case, with no tangible evidence or likelihood of conviction, warranting acquittal under Section 249-A Cr.P.C. He argues that





the trial court has the authority to acquit at any stage if charges are groundless, even before evidence recording, to avoid futile proceedings. He emphasizes that subjecting the accused to trial without sufficient evidence constitutes harassment, as trials are inherently burdensome ("jeopardy and ordeal"). He asserts that prosecution witnesses, including the Chief Medical Officer, failed to corroborate the accused's dual employment or salary withdrawals, rendering the case unprovable. He stresses that the FIR's 3-year delay, unexplained, undermines credibility and suggests collusion, making the prosecution oppressive. He concludes that the absence of incriminating material and reliance on precedents justify acquittal to prevent abuse of judicial process.

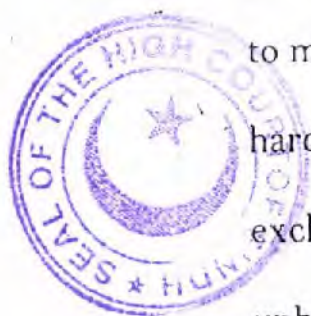
The learned counsel has relied upon the Case Laws i.e. PLD 1999 SC 1063; 2007 PCr.LJ 139 (Division Bench); 2016 PCr.LJ 286 Lahore; 2017 PCr.LJ Note 162; 1991 PCr.LJ 2177 (Muhammad Hassan v. Manzoor Ahmad); 2011 SCMR 863 (State v. Muhammad Saleem Khan); PLD 1973 Kar 478 (per Mr. Justice Tufail Ali A. Rahman); and unreported Judgment of Supreme Court in Case of Abbas Haider Naqvi and another v. Federation of Pakistan, etc.

4. Per contra, the learned APG has argued that the revision application is premature, as the trial is at a nascent stage with only one witness examined and critical evidence—including testimonies from SESSI, Health Department, and bank officials, along with





salary records and service files—yet to be presented. He contends that halting proceedings at this juncture would unjustly deprive the prosecution of its opportunity to substantiate the allegations through a complete evidentiary record, irreparably prejudicing the State's case. Emphasizing the complexity of uncovering systemic financial fraud and dual employment, he asserts that the delay in FIR registration is neither unexplained nor fatal, as such offenses inherently require prolonged audits and inter-departmental scrutiny. He further stresses that credibility and weight of evidence can only be assessed after a full trial, including cross-examination, and that prematurely invoking Section 249-A Cr.P.C. risks stifling justice by relying on incomplete material. The prosecution's right to marshal all evidence, he argues, outweighs speculative claims of hardship to the accused, particularly in cases involving public exchequer losses, where thorough judicial scrutiny is essential to uphold accountability. The learned APG has relied upon the case laws i.e. 2022 SCMR 1861; 2010 SCMR 1785; 2008 SCMR 383; 2005 SCMR 1544; 2004 PLJ SC 02; 2020 YLR Note 7 (Sindh); 2016 P.Cr.L.J. Sindh 883; and 2024 P.Cr.L.J. Lahore 165.



5. I have carefully considered the arguments advanced by both parties and have thoroughly examined the material available on record. A thorough examination of the case record reveals that the complainant, during cross-examination, categorically admitted



that no witness confirmed the Applicant's employment at SESSI, and crucially, the Applicant's purported service records are untraceable. The Complainant/I.O. has admitted that no file of service of the Applicant is available in the SESSI Office. The statement of the MCB Manager also shows that no record of salary is available in the Bank. The statements of employees recorded by the I.O. under Section 161, Cr.P.C. wherein they admitted that they had never seen the Applicant in SESSI Office. These admissions strike at the core of the prosecution's case, as they conclusively negate the foundational premise of the charges. The prosecution has utterly failed to produce any documentary evidence—such as an appointment letter, attendance register, or service contract—to establish the Applicant's employment with SESSI. The Investigating Officer (IO) explicitly confirmed that no personal file of the Applicant exists at SESSI, further corroborating the absence of any institutional relationship. Despite the Applicant's categorical denial of ownership of the alleged bank account and salary-related documents, the prosecution made no effort to conduct handwriting analysis or obtain FSL reports to verify signatures. This glaring omission undermines any attempt to link the Applicant to the purported financial transactions. The bills/vouchers (Exhibits 03/T(1)–03/T(26)) lack the Applicant's signatures, and no witness testified to his involvement in their





creation, handling, or receipt. The Applicant has unequivocally denied the said vouchers. This creates a fatal disconnect, shifting responsibility to unidentified third parties. The MCB SITE Branch records, which could have potentially clarified the Applicant's alleged involvement, were destroyed in a fire, irreparably compromising the prosecution's ability to substantiate its claims. A prior departmental inquiry (No. ACE/East/A.L-385, 2017) had already recommended closing the case due to insufficient evidence. The Investigating Officer's admission of ignorance about this inquiry raises serious concerns about the prosecution's bona fides and suggests a deliberate disregard for exculpatory findings. The Investigating Officer's evasive responses during cross-examination (e.g., "I do not know" regarding the prior inquiry and "I had not sent records for forensic analysis") reflect a non-application of mind and a breach of statutory duties under Section 157 CrPC, rendering the investigation unreliable. The prosecution's reliance on hearsay, conjectures, and procedural lapses violates the cardinal principle of criminal jurisprudence that charges must be proven beyond reasonable doubt through credible, direct, and corroborative evidence. The prosecution has failed to establish even a prima facie case, as it cannot prove:

- **Employment:** No contractual or statutory relationship between the Applicant and SESSI.





- **Criminal Intent (Mens Rea):** No evidence of fraudulent intent or personal gain.
- **Causation:** No nexus between the Applicant and the alleged financial irregularities.

Even if additional witnesses were examined, the permanent loss of critical records (MCB documents, SESSI files) and the absence of forensic corroboration render further proceedings futile. The prosecution's case is not merely weak but wholly unsubstantiated, resting on speculative assertions rather than tangible proof.

6. The prosecution's case is not just weak but entirely non-existent. The acquittal of the Applicant is essential to prevent a grave miscarriage of justice, as the charges are unfounded, the evidence is irreparably tainted, and continuing the proceedings would constitute an abuse of the legal process. Recently, the Honourable Supreme Court of Pakistan, in the case of *Ammad Yousaf v. The State and another* (PLD 2024 SC 273), quashed the proceedings against the accused, observing that: "*The Criminal Procedure Code, 1898 ("Cr.P.C.") has granted an inherent jurisdiction by virtue of sections 249-A and 265-K to the trial courts, as the case may be, to acquit any or all accused at any stage of the judicial proceedings for reasons to be recorded, after providing an opportunity of hearing to the parties. The words "any stage" used in both the sections*





include the stages before or after framing of the charge or after recording of some evidence. Such power can only be exercised where the Court is of the opinion that no charge could be framed because of lack of jurisdiction; because the material available before it is insufficient for the purposes of constituting an offence; that if charge is framed, but the Court considers it to be groundless and to allow the prosecution to continue with the trial would amount to an abuse of process; or that in all circumstances, where there is no probability of conviction of the accused, even after a full-fledged trial. Thus, if circumstances for exercise of inherent powers exist, the Court must use such powers at any stage of the proceedings on its own or upon an application by the accused, provided that an opportunity of hearing is afforded to the parties before making any order. The power assigned to the Courts by the legislature is to avoid the abuse of process of the Court; to protect the integrity of the criminal justice system; to safeguard a person involved in the case from the agony of a purposeless, malicious, and frivolous criminal prosecution; or otherwise, to secure the ends of justice. The exercise of the inherent powers is mandatory in nature, therefore, any departure therefrom would be a violation of the substantive provisions of law and would prejudice the interests of the accused, which is an illegality. If the Court considers that the available material is sufficient to proceed with the trial and refuses to quash the judicial proceedings, it does not preclude the Court from exercising its inherent power subsequently after



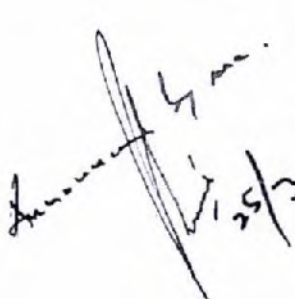


recording some evidence or surfacing any material for the purpose of quashing the proceedings". The underlining is supplied.

7. In light of the above discussion, it is clear that the charge against the Applicant is baseless, and proceeding with the trial would amount to an abuse of the judicial process. The learned Trial Court failed to take into account the admissions made by the Complainant/Investigating Officer (I.O.) during his testimony, including cross-examination, as well as the absence of material evidence, in reaching its decision. Consequently, the Impugned Order issued by the learned Trial Court appears to be legally unsustainable and is therefore liable to be set aside.

8. For the reasons outlined above, the Criminal Revision Application is allowed as prayed for. The Impugned Order dated 28.04.2022 is hereby set aside, and the Applicant is acquitted of all charges. Consequently, the proceedings against him are quashed. The Applicant, who is present on bail, his bail bond and surety stand discharged.



  
JUDGE