ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No.35 of 2022

[State through DAG / AAG Karachi Vs. The Learned Special Court (Offences in Banks) at Karachi & others]

Date	Order with Signature of Judge

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Syed Fiaz Ul Hassan Shah

1. For hearing of MA No.2172/2022
2. For hearing of main case

Mr. Dur Muhammad Shah, DAG.
None present for the respondents.

Date of hearing: 18.12.2025

O R D E R

Syed Fiaz Ul Hassan Shah; J: The State through Additional Attorney General, Karachi Office, has filed the present Criminal Revision Application and has challenged the order dated 30.11.2021 **("impugned order")** passed by the learned Special Judge (Offences in Banks) Sindh at Karachi **("trial Court")** arising from FIR No.31 of 2021 registered under Sections 3 and 4 of the Anti-Money Laundering Act, 2010 **("the said Act")** at Police Station FIA (CC), Hyderabad, whereby it was held that for the offence under Section 3 punishable under Section 4 of the said Act, complaint should be filed before the competent Court of law instead of registration of FIR under Section 154 Cr.P.C. and the said FIR was declared as void and was ordered to be returned / disposed of.

2. The brief facts of the case are that the present Criminal Revision Application is an outcome of FIR No.17 of 2021 registered with PS FIA Crime Circle, Hyderabad, registered under Sections 34, 409, 420, 471 and 109 PPC against accused persons (i) Ghulam Raza Rind, (ii) Akhtar Mehmood, (iii) Syed Yar Muhammad, and (iv) Rizwan Jamali. During the course of inquiry / investigation, it was revealed that accused Ghulam Raza Rind was posted as Agriculture Finance Officer (AFO) in Habib Bank Limited **("HBL")**, Tando Allahyar Branch during the period from 2015 to 2019. The said accused Ghulam Raza Rind in collusion / connivance with (i) Rizwan

Jamali (AFO), (ii) Akhtar Mehmood Waraid (Branch Manager), and (iii) Syed Yar Muhammad Shah (Manager and Teller Services) were involved in embezzlement / misappropriation of PKR-21,370,000/- by way of fraudulent / forged activities, unauthorized / bogus transactions in ARF accounts including routing of funds between account without apparent reason and disputed ARF facility recommended / proposed and criminal negligence on their part from period w.e.f. 18.02.2009 to 15.12.2019. Further, the said bank employees / accused carried out embezzlement / misappropriation of amount of Rupees 21.4 million against 13 ARF accounts by way of unauthorized transactions and fraudulent activities i.e. issuance of disputed cheque books and renewal of three ARF accounts without taking into confidence or informing to the accountholders, hence the said fraudulent activities of the said accused / employees caused loss of Rupees 21.4 million to HBL. The embezzled amount i.e. Rupees 21.4 million was fraudulently withdrawn in cash and disposed of in connivance of each other by the above said accused persons.

3. We have heard the learned Deputy Attorney General while the counsel for the respondents No.2 to 5 have been called absent despite service of notices and, therefore, with the assistance of learned DAG, perused the record.

4. Under the **Code of Criminal Procedure, 1898**, **(Cr.P.C)** two distinct procedural routes exist for setting the criminal law in motion: through registration of a First Information Report **(FIR)** under Section 154 Cr.P.C., or through a **complaint** filed directly before the Magistrate under Section 200 Cr.P.C. A complaint under Section 200 Cr.P.C. bypasses the investigative role of the police and directly invokes the jurisdiction of the Magistrate. In such proceedings, the Magistrate examines the complainant and witnesses and, upon satisfaction that a prima facie case is made out, issues process against the accused. The evidentiary burden in a complaint case rests primarily on the parties themselves, without the benefit of a prior police investigation or recovery process.

5. In contrast, an FIR is the statutory mechanism by which information relating to the commission of a cognizable offence is formally recorded by the police. Once such information discloses a cognizable offence, registration of the FIR is mandatory, leaving no discretion with the officer in charge. The registration of an FIR activates the police machinery, obliging the police to investigate under Section 157 Cr.P.C., exercise powers of arrest under Section

54 Cr.P.C., effect recoveries of case property, and collect evidence. This investigative process culminates in the submission of a police report (challan) under Section 173 Cr.P.C., upon which cognizance is taken by the competent court under Section 190 Cr.P.C. While both procedures are legally recognized and may coexist within the criminal justice system, they operate through fundamentally different channels—one driven by state investigation through police authority, and the other by judicial scrutiny of evidence presented directly before the court.

6. The Anti-Money Laundering Act, 2010 (AMLA) is premised upon the existence of a scheduled or **predicate offence** under another law. Sections 20(a) and (b) explicitly affirm the separate character of the predicate offence and the laundering offence, thereby requiring distinct legal treatment. It is not merely a variant of the same occurrence. Rather, it establishes a distinct jurisdiction and mandates independent cognizance. The Act provides an autonomous regime for investigation, prosecution, and punishment. In addition, section 21(2) AMLA lays down a comprehensive framework to combat financial crimes by declaring such offences **cognizable**, thus mandating investigation through registration of FIR and recourse to the police process.

7. Section 7 of AMLA defines the offence by incorporating both the **actus reus** — namely, possession, control, or handling of proceeds of crime — and the **mens rea** — knowledge or reasonable belief that the property is derived from criminal activity. This dual requirement ensures that liability cannot be evaded through ignorance. The provision is reinforced by the Qanun-e-Shahadat Order, 1984, particularly Article 23 on conspiracy and Article 122 on burden of proof, which obligate accused persons to furnish plausible explanations when facts lie within their special knowledge.

8. Simultaneously, Explanation II to section 3 categorically dispenses with the necessity of a prior conviction for the predicate offence, thereby affirming that proceedings for money laundering may be initiated and sustained irrespective of whether the underlying scheduled offence has culminated in conviction. Unlike the Code, the traditional doctrine of **“same transaction”** does not extend to AMLA offences. Consequently, the embargo against second FIRs has no application in the context of money laundering,

and registration of a separate FIR under AMLA is both necessary and legally mandated for investigation by the competent authority.

9. The principle laid down in ***Sugra Bibi v. The State*** **(PLD 2018 SC 595)**, which bars second FIRs arising from the same transaction, is misplaced in AMLA cases and irrelevant. Section 39 of AMLA contains a non-obstante clause, giving the Act overriding effect over all inconsistent laws. This special character has been affirmed in ***Justice Qazi Faez Isa v. President of Pakistan*** **(PLD 2021 SC 1)**. Being a special law, AMLA prevails over general procedural limitations, including those relating to FIR registration and trial modalities.

10. AMLA is a binding legal instrument designed to expose and prevent the concealment of illicit funds while safeguarding the integrity of financial systems. To grasp further reasonableness, the principles laid down by the Supreme Court of Pakistan with regard to the FIR where no offence is made out or no authority to register criminal cases as held in ***"Muhammad Abbasi v. S.H.O. Bhara Kahu" PLD 2010 SC 969, "Col. Shah Sadiq v. Muhammad Ashiq", (2006 SCMR 276), "Rana Shahid Ahmad Khan v. Tanveer", "D.G. FIA v. Kamran Iqbal" (2016 SCMR 447), "Miraj Khan v. Gul Ahmed" (2000 SCMR 122), "A. Habib Ahmad v. M.K.G. Scott Christian", (PLD 1992 SC 353),*** do not apply to the cases which are prosecuted or tried under the AMLA.

11. It is quite possible that a person prosecuted for the scheduled offence is different from a person prosecuted for the offence under the Anti Money Laundering Act, 2010. For example; Mr. X may be a person who is liable to be prosecuted for schedule offence. In perpetrating this offence, Mr. X may have been paid a certain amount of **money**. This **money** is ultimately traced to Mr. Y, who is charged with the same schedule offence and he can also be charged with possession of the proceeds of crime. In other words, it is legally possible that a person accused of the predicate offence may differ from the person prosecuted for money laundering arising from the proceeds thereof. Therefore, the principles governing quashment of FIRs or lack of authority to register cases, as laid down in ***Muhammad Abbasi v. SHO Bhara Kahu*** **(PLD 2010 SC 969)** and similar precedents, even do not apply to AMLA prosecutions.

12. We have elaborated the key difference between the FIR and Complaint and the silent features of the AMLA. The word ***"Complaint"*** **used in** Section 21(2) of AMLA, it defines "complaint" in a plenary sense, akin to a police report under Section 173 CrPC, and not a private complaint as contemplated under Section 4(1)(h) or Section 200 Cr.P.C. It restricts that a complaint under AMLA is filed only by an authorized agency after investigation, ensuring that prosecutions are initiated under strict statutory control. It is, in substance and effect, a challan/report and not a private allegation by an individual.

13. Initially, the offences of AMLA was decaled as non-cognizable and non-bailable. The word **"non-cognizable"** was substituted vide amendments in the AML Act-official Gazette Notification No. F.22(50)/2020-Legis dated 24- Sep-2020 declaring it **"cognizable"**. The entire process of registration of FIR and complaints reflects a mandatory statutory sequence, leaving no room for deviation where **cognizable offences** are disclosed. Therefore, it may be open to both galleries i.e. FIR or Complaint for legal course and for this reason the learned trial Court has read over the word "complaint" as "private complaint" by importing definition of section 4(1)(h) from the Code.

14. The cumulative effect of AMLA mandates advancement of its object and purposes. The audacious import of the statute itself requires departure from the Code of Criminal Procedure, 1898. Reliance upon or incorporation of definitions from other statutes or the Code may yield consequences neither originally contemplated nor expressly intended by the legislature, and in certain instances, may culminate in absurdity. Accordingly, section 21(1) of AMLA, by classifying offences under the Act as cognizable and non-bailable, operates with overriding effect upon the Cr.P.C. and definition of "private complaint" under the proviso to section 4(1)(h) is therefore impermissible in the context of AMLA, as the special statute establishes its own distinct procedural framework.

15. Another possible way of statutory explanation can be that if the principles of a private complaint applies to Section 21(2) AMLA by construing the word "complaint" in isolation, as the trial court did, it would distort the legislative intent and clash with the basic procedural framework of the Code /Cr.P.C. Under Section 21, the legislature has expressly declared offences under AMLA to be cognizable, which necessarily triggers the machinery of police to begin with registration of FIR and to proceed with

investigation. Therefore, reading Section 21(2) separately, without harmonizing it with other provisions, may wrongly import the word "private complaint" from Cr.P.C., thereby bypassing the AMLA statutory requirement. Such an interpretation would undermine the foundational scheme of the Code, where cognizable offences must originate in police investigation rather than private initiation. Therefore, the word "complaint" in Section 21(2) AMLA must be understood in the context of AMLA's cognizable nature, read conjointly with Section 3,7, 20 and 21, so as to preserve consistency.

16. It is settled that special law is to be applied to a particular case on the basis of special jurisdiction envisaged in that particular law and provisions of general law stands displaced as held in ***"Neimat Ali Goraya v. Jaffar Abbas" (1996 SCMR 826)***. The same analogy is available in the cases reported as ***"M/s Nooni Traders, Karachi v. Pakistan Civil Aviation Authority", (PLD 2002 Karachi 83), "Smaeel vs. The State", (2010 SCMR 27), "The State v. Fazeelat Bibi" (PLD 2010 Lahore 498), "National Bank of Pakistan v. Emirates Bank International Ltd" (1993 CLC 2009 Karachi and "Saeed Ullah Paracha v. Habib Bank Ltd", (2014 CLD 582 Lahore)***.

17. We would further elaborate "complaint" from the legal perspective ruled in ***Nur Ellahi v. The State & others*** **(PLD 1966 SC 70-8)**. The larger Bench of the Supreme Court of Pakistan authoritatively examined the procedural relationship between two distinct and independent modes of instituting criminal proceedings—one through a First Information Report under section 154 CrPC followed by a police challan, and the other through a private complaint under section 200 CrPC. The case arose out of the murder of Muzaffar Piracha, initially reported through an FIR naming certain individuals as offenders. Upon investigation, however, the police submitted a challan against a different set of persons and placed the originally nominated accused in column No. 2, indicating that no case was found against them. Dissatisfied with this conclusion, the complainant exercised his statutory right to file a direct complaint before the Magistrate against those originally named. This divergence between the police version and the complainant's version gave rise to a procedural conflict, necessitating judicial determination as to how such parallel proceedings should lawfully proceed. The Court clarified that although both FIR-based prosecutions and complaint cases are legally recognized and independent methods of setting the criminal law in motion, they cannot be amalgamated into a single trial where they involve different

sets of accused. Construing section 239 CrPC, the Court held that a joint trial is permissible only where the accused are charged with the same offence committed in the course of the same transaction. Where the allegations are mutually exclusive—so that either one set of accused or the other may be guilty, but not both—they cannot be said to have participated in the same transaction and must, therefore, be tried separately.

18. Importantly, when these principles are applied to proceedings under **section 21(2) of the Anti-Money Laundering Act**, the "complaint" contemplated therein cannot be equated with a private complaint under section 200 Cr.P.C. Rather, such a complaint is procedural in nature and is more closely analogous to a **police report or charge sheet**, as it is filed by an authorized agency after inquiry into an offence that is statutorily dependent upon the existence of a predicate offence. Treating an AMLA complaint as a complaint under section 200 Cr.P.C., it would render the process inconsistent with the ratio of *Nur Ellahi*, because it would require the money-laundering prosecution to proceed independently and potentially prior to the adjudication of the predicate offence—an outcome that is legally impermissible and practically unworkable. Since the offence of money laundering is derivative and contingent upon the commission of a scheduled offence, its prosecution cannot logically or lawfully precede the determination of the **predicate offence**.

19. The investigative and procedural provisions of Cr.P.C, including Sections 154, 157, 167, and 173, apply to AMLA proceedings. Cognizance under AMLA is taken only upon submission of a report/challan by the authorized agency. Private complaints under Section 200 Cr.P.C have no application in AMLA prosecutions. The proper statutory sequence therefore is: registration of FIR → investigation → submission of challan → cognizance by the competent court.

20. In summation, we emphasize that unlike the word complaint used in Cr. P.C., the word "complaint" as incorporated in Section 21(2) of the Anti-Money Laundering Act, 2010 carries a distinct and independent meaning within the statutory framework. To construe the term otherwise, by borrowing definition of complaint from Cr. P.C. and treating it as a private complaint is glaringly inconsistent with the legislative scheme. The legislature, through amended Section 21, has already declared AMLA offences to be cognizable.

While reading Section 21(2) in isolation would therefore clash with this structure of Cr.P.C. and undermine the AMLA statutory design. Accordingly, the word complaint in Section 21(2) must be interpreted as a procedural mechanism available only to the designated class of officers and authorities specified in the AMLA for the cognizable nature of AMLA offences. The trial court therefore erred in equating the AMLA concept of "complaint" with a private complaint under Section 200 Cr.P.C, as the two operate in entirely different statutory contexts.

21. Before departing with judgment, lastly we would refer another important point pertinent to jurisdiction of trial Court. The Offences in Respect of Banks (Special Courts) Ordinance, 1984 establishes Special Banking Courts. Section 2(d) of the Ordinance defines "scheduled offences" as those specified in its First Schedule for scheduled banking offences. The offence of money laundering is not included in the First Schedule of the Ordinance. Consequently, Special Banking Courts lack independent jurisdiction to try standalone AMLA offences. Section 20 AMLA vests jurisdiction for money laundering offences in the Court of Sessions. However, the proviso to Section 20 allows money laundering offences to follow the forum of the predicate offence. Where the predicate offence is triable by a Special Judge (offence in Banks) Court, that court may try AMLA charges incidentally to avoid fragmented proceedings. This interpretation harmonizes both statutes and has been affirmed by superior courts.

22. Accordingly, AMLA is not a self-executing statute but a special law activated by the existence of a predicate offence. The offence of money laundering remains distinct, requiring independent FIR, investigation, and cognizance. The bar against second FIRs is inapplicable under AMLA. Special Courts (Offence in banks) may try AMLA offences only when linked with scheduled predicate offences within their jurisdiction. The impugned reasoning of the trial court is therefore legally unsustainable. Consequently, the Criminal Revision is allowed and the impugned Order is set aside. The trial Court shall proceed accordingly.

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