

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Misc. Application No. S-116 of 2025  
(Ghulam Qadir Vs. TheSSP Sukkur & others)

Date	Order with signature of Judge
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- 1. For Orders on office objection.
- 2. For hearing of main case.
- 3. For hearing of MA No. 1016/2025.

**ORDER.**  
21-03-2025.

Mr. Abdullah Khan Brohi, advocate for the applicant.  
Mr. Muhammad Hamzo Buriro, advocate for respondent No.3.  
Syed Sardar Ali Shah Rizvi, Additional P.G for the State.  
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**Ali Haider 'Ada',J:-** The applicant being aggrieved with the order dated 04-02-2025 passed by learned Vth Additional Sessions Judge/Ex-Officio Justice of Peace Sukkur in Crl. Misc. Application No. 253/2025 Re. “ Muhammad Ibrahim Vs SSP Sukkur & Others” filed by respondent No. 3 for registration of FIR, whereby learned Ex-Office Justice of Peace issued directions to Station House Officer of Police Station Qadipur to record the statement of respondent No. 3 and if cognizable offence is made out then to incorporate the same into 154 Cr.P.C book; therefore the applicant has impugned the said order by preferring the instant Crl. Misc. Application.

2. Learned counsel for the applicant contended that the cheque in question is manipulated and misused against the applicant and no any amount of respondent No.3 is outstanding against the applicant; that agreement of sale was executed between respondent No. 3 with others in which the applicant was act only as witness and such fact is mentioned in the agreement to sale; that the cheque in question was given for security purpose in lieu of plot which payment was already paid, but the cheque was not returned by the respondent No.3 on the ground that same has been misplaced; that he also filed an application u/s 22-A & 22-B Cr.P.C for

protection as well as for return of cheque before Ex-Officio Justice of Peace; that respondent No.3 in order to get advantage intend to lodge false FIR against the applicant to get amount, which has already been paid to him. Lastly he prays for setting aside the impugned order.

3. On the other hand learned counsel for the respondent No.3 contends that the agreement to sale is managed one and even such agreement was not placed by the applicant in his application u/s 22-A & 22-B Cr.P.C for grant of protection, but now in order to save his skin from legal consequences, such concocted and managed story is placed, otherwise, the applicant issued one cheque of Rs. 2,20,000/- bearing cheque No.83223118 dated 18-08-2024 of HBL Microfinance Bank. He lastly argued that order of learned Ex-Officio Justice of Peace seems to be legal and justified.

4. Learned Additional P.G for the State submits that business transaction, prima-facie established in application u/s 22-A & 22- Cr.P.C filed by respondent No. 3 and in such manner the cheque was issued and the Bank affirmed that the same was dishonored due to insufficient funds; therefore he supports the impugned order.

5. Heard learned counsel for the parties and perused the material available on record.

6. Section 489-F PPC inserted by Ordinance LXXXV of 2002 dated 25-10-2002 as the same is reproduced as under:-

**489—F Dishonestly issuing a cheque—***“Whoever dishonestly issues a cheque towards re-payment of a loan or fulfilment of an obligation which is dishonored on presentation, shall be punishable with imprisonment which may extended to three years, or with fine, or with both unless he can establish for which the burden of proof shall rest on him, that he had made arrangements with his bank to ensure that the cheque would be honoured and that the bank was at fault in not honouring the cheque”.*

7. In the instant matter the cheque was dishonored on its presentation before the concerned Bank. The learned Ex-Officio Justice of Peace after perusal the material allowed the application with direction that the statement be recorded, if, cognizable offence is made then incorporate such statement in register u/s 154 Cr.P.C. At this stage, the defence plea of the respondent No.3 requires investigation and on such aspect it is crystal clear that the person can take his defence plea before Investigation Officer. It is prime duty of Investigation Officer to collect evidence from all corners and till then no arrest should be effected unless a tangible evidence was collected by investigation agency.

8. The section 489-F PPC is a cognizable offence, therefore, only on the defence plea, even did not support with any cogent evidence has no ground to expel the version of respondent No. 3, who acted being as complainant. Reliance is placed on case of *Malik Sohail Aslam Vs. Superintendent of Police (Operation), Lahore and 3 others* (2017 YLR 1548).

*"We are unanimous in our view that admittedly the cheque were dishonored and dishonored slips are attached with the record but this material aspect perhaps escaped notice of the learned Single Judge-in-Chambers. Guidelines in this respect can also be sought from "Younas Abbas and others Vs. Additional Sessions Judge, Chakwal and others" (PLD 2016 Supreme Court 581).*

9. In view of foregoing reasons, no illegality or irregularity seems in order passed by learned Justice of Peace, therefore the instant Crl. Misc. Application stands dismissed together with listed application.

**J U D G E**