

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Misc. Application No.50 of 2026

Applicant No.1 : Sadaf Qaiser W/o. Qaiser Abbas  
Applicant No.2 : Qaiser Abbas S/o. M. Abbas

Through M/s. Zameer Ahmed Bhutto  
& Ghulam Mustafa Hingorjo,  
Advocates

Respondent No.1 : SHO PS Gulistan-e-Jauhar.  
Respondent No.2 : SSP Karachi East.  
Respondent No.3 : Raheel Rafiq son of M. Rafiq  
Through Ms. Uroosha Memon,  
Advocate.

The State : M/s. Sharafuddin Kanhar & Najma  
Latif Golo, A. P. G. Sindh.

Date of hearing : 27.04.2026.  
Date of Order : 27.04.2026.

### ORDER

**Jan Ali Junejo, J:--** Through this Criminal Miscellaneous Application, the Applicant has sought setting aside of the Order dated 17.01.2026 (hereinafter referred to as the "Impugned Order") passed by the learned Additional Sessions Judge-V/Ex-Officio Justice of Peace, Karachi East, whereby directions were issued to the SHO, P.S. Gulistan-e-Jauhar, to register an FIR against the Applicants.

2. The facts, as reflected from the record, are that Respondent No.3 is employed as a Manager with Sameer Builders Developers; that during the period 2020-2021, one Raja Qaiser S/o Muhammad Abbas obtained a loan of Rs. 10,000,000/- from the Respondent No.3's company under a formal agreement but, upon demand, deliberately avoided repayment on one pretext or another; that subsequently, proposed accused Qaiser Abbas issued cheque No. 0089296050 drawn on MCB Bank, Gulistan-e-Jauhar, Karachi for Rs. 5,000,000/- as part payment, which upon presentation was

dishonoured, leading to the registration of FIR No. 546/2023; that during investigation, the police arrested Raja Qaiser along with his wife Sadaf Qaiser and recovered Rs. 500,000/- in cash, while two post-dated cheques amounting to Rs. 9,500,000/- were also issued, namely cheque No. A05316979 dated 31-08-2025 and cheque No. A05316978 dated 31-12-2025 drawn on Meezan Bank, Shamsi Cooperative Housing Society branch, both of which were later dishonoured (the former due to stop payment instructions); that despite reporting the matter to the Respondent/SHO and requesting legal action, no action was taken against the accused persons; and that, being left with no other efficacious remedy, the applicant has approached this Honourable Court, hence, this case.

3. Learned counsel for the Applicants argued that the Impugned Order is illegal, void, and an abuse of process as it mechanically directs FIR registration despite the Applicant having no nexus with the alleged transaction. He emphasized that no loan was ever obtained by the applicants from the Respondent No.3 or his company. It was argued that no loan agreement or independent documentary evidence has been produced to substantiate the alleged transaction of Rs.10,000,000/-. The learned counsel further pointed out an alleged contradiction between FIR No.546/2023 and the instant application with regard to the loan amount. It was also contended that the cheques in question were not issued voluntarily but were obtained under coercion, threats, and undue influence when the applicant No.2 was already under arrest in FIR No.546/2023. Learned counsel further submitted that mere dishonour of cheques does not constitute an offence under section 489-F PPC and that the dispute is purely civil in nature. It was also argued that the applicants have filed Civil Suit No.11871 of 2025 for cancellation of the cheques in question, which is pending adjudication before the competent court. In support of his contentions he placed reliance on the case law reported as PLD 2018 Supreme Court 595 [Re. Mst. Sughran Bibi Vs. The State], 2023 P.Cr.L.J 1615 [Re. Ali Akbar and 2 Other Vs. The State] and 2023 YLR Note 46 [Re. Dr. Abdul Latif Vs. SHO & 2 Other].

4. Learned counsel for Respondent No.3 contended that the Impugned Order was passed in accordance with law and the Applicants were actively involved in transactions with the Respondent No.3, and the FIR is necessary to determine the extent of their responsibility. He further submitted that the Respondent No.3's financial losses warrant a thorough probe, and the order for FIR registration was legally justified. Lastly, the learned counsel prayed for dismissal of the Criminal Misc. Application.

5. Learned Assistant Prosecutor General, supported the Impugned Order, arguing that the Criminal Miscellaneous Application is not maintainable as the Applicants' plea of non-involvement is a factual issue requiring police investigation. She emphasized that prima facie material exists to justify FIR registration, and the Court should not interfere with the process of investigation at this stage.

6. I have considered the arguments advanced by the learned counsel for the parties and perused the record with their assistance. The primary question before this Court is whether the learned Ex-Officio Justice of Peace correctly exercised his jurisdiction under Section 22-A, Cr.P.C. It is an admitted position that the dispute between the parties emanates from a loan transaction. The record reflects that certain cheques were issued in relation to repayment of the said amount; however, it has specifically been pleaded by the petitioners that the cheque in question was obtained under coercion and force and, in this regard, Civil Suit No.11871 of 2025 for cancellation of the cheques in question is pending adjudication before the competent civil court. Such plea, at least at this stage, creates a serious doubt regarding the voluntary issuance of the cheque and the intention behind the same. It is well-settled that where the controversy predominantly relates to enforcement of contractual or financial obligations, the same ordinarily falls within the domain of civil proceedings unless clear and independent ingredients of a cognizable criminal offence are made out. It is

further an admitted position on record that the cheque in question was issued by the applicant and, upon its dishonour due to non-payment, FIR No.546 of 2023 was duly registered against the applicant. It is further evident that after the arrest of the applicant in the said case, partial payment towards the disputed amount was made, and the trial arising out of Crime No.546 of 2023 is presently pending adjudication before the competent court. In such circumstances, the registration of a second FIR concerning the same transaction and identical disputed amount appears to be legally unjustified and amounts to duplication of proceedings, which is not permissible under the law. Once the matter has already been set into motion through the earlier FIR and remains sub judice, the respondent ought to pursue the remedy available in the already instituted proceedings rather than initiating a fresh criminal case on the same cause of action.

7. The lodging of a second FIR on the same allegations and for recovery of the same amount is prima facie an abuse of the process of law, exposing the applicant to double jeopardy and unnecessary harassment. The settled principle of law is that for one and the same transaction, multiple FIRs cannot ordinarily be registered, particularly when the earlier FIR is pending trial and provides an adequate legal forum for adjudication of the dispute. Therefore, the respondent, if so advised, may pursue the remedy available in the already pending FIR No.546 of 2023, whereas the subsequent proceedings initiated on the same set of facts and for the same amount are liable to be treated as legally untenable.

8. This is a clear abuse of the process of law, and the applicants should not be made to suffer for a matter which is already sub judice before a competent court. It has been observed that Section 22-A, Cr.P.C. has frequently been misused, leading to unwarranted legal actions in numerous cases. The legislative intent behind this provision was never to allow its indiscriminate invocation for harassing individuals who, in the course of lawful proceedings, are already facing trial in respect of the same transaction. Courts must

exercise caution and avoid mechanically entertaining applications under Sections 22-A and 22-B, Cr.P.C. without first assessing whether the applicant has approached the Court with clean hands or whether the application is motivated by malice or intended to exert pressure upon the opposite party. Failure to do so may have serious consequences. The law must be interpreted in a fair and balanced manner, ensuring that its protection is extended to all individuals without being used as a tool for harassment or coercion.

9. Reliance may be placed on the principle established in *Imtiaz Ahmed Cheema v. S.H.O., Police Station Daharki, Ghotki & Others* (2010 YLR 189), wherein it was emphasized that courts must exercise due diligence before directing the registration of an FIR. Reference may also be made to *Jamil Ahmad Butt and another v. The State through Prosecutor-General, Sindh and others* (2014 P.Cr.L.J. 1093), wherein this Court emphatically held that: "There are instances of misuse of provisions of section 22-A, Cr.P.C. and, therefore, it is the duty of the Court that such misuse should be taken care of and such application should not be lightly entertained in a mechanical manner for direction to the police to register a statement of complainant and start prosecuting the alleged accused persons".

10. Likewise, the jurisdiction vested in an Ex-Officio Justice of Peace under Sections 22-A and 22-B, Cr.P.C. is supervisory in nature and of an extraordinary character. Its essential object is to provide a safeguard against arbitrary, capricious, or mala fide inaction on the part of the police, thereby ensuring that information relating to cognizable offences is not unlawfully suppressed or stifled. In the case of **Munawar Alam Khan v. Qurban Ali Mallano and others** (2024 SCMR 985), the Honourable Supreme Court of Pakistan was pleased to hold that: "Having heard the petitioner and scanned the material available on the record, we observe that there are many precedents regarding misuse of provisions of Sections 22-A and 22-B, Cr.P.C. and it is the prime duty of the Court that such misuse be taken care of and application filed should not be lightly entertained

and decided in a mechanical manner for issuing direction to the police to lodge an FIR, conduct investigation in the matter and prosecute the accused”.

11. In view of the above discussion, the instant petition is allowed. The impugned order dated 17.01.2026 passed by the learned Ex-Officio Justice of Peace is hereby set aside. Consequently, any direction issued pursuant thereto for registration of FIR stands recalled.

**JUDGE**