

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No. 91 of 2026

Applicant : Amir Zia, through Mr. Abdul Basit, Advocate.

Respondent No.1 : JS Bank Limited (JSBL), through Mr. Asad Ali Qureshi, Advocate.

Respondent No.2 : The State, through Mr. Mohsin Ali Mangi, APG.

Date of hearing : 19.05.2026.

Date of judgment : 19.05.2026.

J U D G M E N T

TASNEEM SULTANA – J:- Through the instant Criminal Revision Application filed under section 439 Cr.P.C., the applicant has assailed the order dated 28.01.2026 passed by learned Xth Additional Sessions Judge Karachi South in Direct Complaint No.1416 of 2023, whereby application filed by the applicant under section 265-K Cr.P.C. seeking premature acquittal was dismissed.

2. The brief facts of the prosecution case are that respondent No.1/complainant filed a direct complaint under sections 499 and 500 PPC against the present applicant alleging therein that the applicant, being senior journalist and managing editor of magazine namely “Narrative”, published an editorial/article titled “The Failed TakeOver Bid” dated 09.01.2023 containing imputations allegedly intended to malign and defame the complainant bank and its management. It was alleged in the complaint that through the impugned publication various allegations relating to market manipulation, money laundering inquiries, financial irregularities and unethical banking activities were published and circulated with malafide intention to damage the reputation, goodwill and commercial standing of the complainant amongst shareholders, banking circles, regulators and members of public. After observance of codal formalities and recording of preliminary evidence, cognizance was taken by the learned trial Court, and subsequently formal charge was framed against the applicant on 13.10.2025 to which he pleaded not guilty and claimed trial.

3. During pendency of proceedings, the applicant moved an application under section 265-K Cr.P.C. contending therein that the impugned publication was based upon pending judicial proceedings, shareholder disputes, regulatory matters and issues already circulating in public domain concerning affairs of the complainant bank and associated entities; therefore, according to the applicant, the publication constituted fair comment and responsible journalistic reporting made in good faith upon matters touching public and commercial importance. It was further contended that no offence under sections 499 and

500 PPC was made out and continuation of criminal proceedings amounted to abuse of process of law. The learned trial Court, after hearing the parties, vide impugned order dated 28.01.2026 dismissed the said application by observing that disputed factual controversies involved in the matter required recording of evidence and deeper appreciation of material available on record.

4. Learned counsel for the applicant contends that the learned trial Court failed to appreciate that the impugned publication/article was based upon pending judicial proceedings, shareholder disputes, regulatory matters and issues already circulating in public domain concerning affairs of the complainant bank and associated entities; therefore, according to the learned counsel, the publication constituted fair comment and responsible journalistic reporting made in good faith upon matters touching public and commercial importance. It is further contended that the applicant merely reported ongoing litigation, corporate disputes and allegations already subject matter of judicial and regulatory proceedings and, thus, essential ingredients constituting offences under sections 499 and 500 PPC were not attracted. He further argues that no material had been produced by the complainant to prima facie establish actual reputational harm or requisite mens rea for constituting criminal defamation. It is submitted that continuation of criminal proceedings against the applicant amounts to abuse of process of law and unnecessary curtailment of freedom of speech and journalistic expression guaranteed under Article 19 of the Constitution of Islamic Republic of Pakistan, 1973. He further submits that the impugned publication was based upon matters of public importance touching banking affairs, shareholder disputes and corporate governance issues and, therefore, the same squarely fell within protective ambit of fair comment and public good. In support of his contentions, learned counsel placed reliance upon PLD 2022 Supreme Court 562, PLD 2017 Islamabad 370, 2024 P.Cr.L.J 1526, PLD 2019 Sindh 670 and other reported judgments.

5. On the other hand; learned counsel for the respondent/complainant vehemently opposes the application and argues that the impugned publication was not a bona fide act of fair reporting; rather, the same was intentionally published and widely circulated at a crucial time when JS Bank was negotiating takeover/acquisition of BankIslami; therefore, according to the learned counsel, the timing, tenor and manner of publication clearly reflected malafide intention on the part of the applicant to damage the reputation, credibility and commercial standing of the complainant in the eyes of the general public as well as the banking and business community. It is further contended that the publication contained allegations regarding unethical activities, financial irregularities, NAB inquiries and banking scandals despite the fact that no competent forum had finally adjudicated upon such allegations; hence, the applicant had exceeded the limits of responsible journalism and fair comment by publishing sensationalized and allegedly defamatory material capable of lowering the reputation and goodwill of the complainant. It is further submitted that questions relating to intention, malice, good faith, public good, fair comment and applicability of exceptions to section 499 PPC are disputed questions of fact which require recording of

evidence and cannot conclusively be adjudicated upon at this premature stage while exercising jurisdiction under section 265-K Cr.P.C. Learned counsel further maintained that the publication complained of was not confined to mere reproduction of judicial proceedings but also incorporated editorialized assertions and imputations which, according to the complainant, were intentionally designed to create adverse public perception and commercial distrust concerning the complainant bank at a commercially sensitive stage. Therefore, according to the learned counsel, the learned trial Court had rightly declined the application and no case for interference was made out.

6. Learned D.P.G appearing on behalf of the State supports the impugned order passed by the learned trial Court.

7. Heard learned counsel for the applicant, learned counsel for respondent \ complainant as well as learned D.P.G. for the state and perused the material available on record.

8. Before dilating upon merits of the controversy in hand, it would be advantageous to briefly discuss scope and object of section 265-K Cr.P.C. The said provision empowers the Court to acquit an accused at any stage of proceedings only where, after hearing the parties and for reasons to be recorded, the Court reaches a definite conclusion that there exists no probability whatsoever of conviction. The jurisdiction under section 265-K Cr.P.C. is extraordinary in nature and is to be exercised sparingly, cautiously and only in exceptional circumstances.

Section 265-K Cr.P.C. reads as under: -

“265-K. Power of Court to acquit accused at any stage: Nothing in this Chapter shall be deemed to prevent a Court from acquitting an accused at any stage of the case, if, after hearing the prosecutor and the accused and for reasons to be recorded, it considers that there is no probability of the accused being convicted of any offence.”

9. It is now well settled that provisions of sections 249-A and 265-K Cr.P.C. constitute exceptions to the general rule that criminal liability should ordinarily be determined after recording of evidence, statement of accused under section 342 Cr.P.C. and full-fledged trial. In the case of **The State v. Raja Abdul Rehman (2005 SCMR 1544)**, the august Supreme Court of Pakistan observed as under: -

“... usually a criminal case should be allowed to be disposed of on merits after recording of the prosecution evidence, statement of the accused under section 342, Cr.P.C. recording of statement of accused under section 340(2), Cr.P.C. if so desired by the accused persons and hearing the arguments of the counsel of the parties and that the provisions of section 249-A, section 265-K, and section 561-A, of the Cr.P.C. should not normally be pressed into action for decision of fate of a criminal case.”

10. Likewise, in the case of **Nawaizish Ali and another vs. The State and others (2010 SCMR 1785)**, it was observed as under: -

“In view of the available evidence prima facie case is made out against the said respondents. The object of exercise of powers is to prevent abuse of law available to the learned appellate Court however in a case where sufficient prima facie evidence is available the powers may not be exercised as to throttle the process of justice. Mere availability of defence to a party does not call for exercise of such powers that call for exercise of judicial discretion. The prosecution evidence is not to be sifted at the outset...”

11. Similar view was taken in the case of **Mst. Kalsoom vs. Bashir Ahmed and others (2000 PCr.LJ 1054)**, wherein it was held: -

“However, in order to prevent abuse of the process of the Court and secure the ends of justice, it has been emphasized over and again by all the superior Courts that the discretionary powers under this section are to be exercised sparingly and judiciously, and in no way arbitrarily and capriciously. It may not be, therefore; fair for the Court to pass order of acquittal without providing proper and full opportunity to the parties concerned to produce evidence. The Court is undoubtedly empowered to acquit the accused at any stage, as mentioned hereinabove, but it should do so only when, after hearing both prosecution and accused, it comes on the basis of adequate reasons to the definite conclusion that there is no possibility of accused being convicted of any offence. In any case the prosecution is not to be stifled at the outset.”

12. There is no denial that the applicant is nominated in the complaint with specific allegations concerning publication of the impugned article/publication. The record further reflects that cognizance has already been taken and formal charge has also been framed against the applicant to which he pleaded not guilty and claimed trial. The learned trial Court while framing the charge had already formed an opinion that sufficient grounds existed for proceeding with the trial and prima facie case was made out against the applicant after considering material and documents available before it.

13. The principal defence raised by the applicant is that the impugned publication was based upon pending judicial proceedings, shareholder disputes and matters allegedly touching public importance. However, the complainant has specifically alleged that the applicant travelled beyond limits of fair and accurate reportage and incorporated sensationalized and allegedly defamatory editorial content. Whether the publication in question constituted fair reporting protected under exceptions to section 499 PPC or whether the applicant exceeded permissible limits and published defamatory imputations are disputed mixed questions of law and fact requiring evidentiary determination.

14. There can be no denial to the proposition that freedom of expression and responsible journalism enjoy constitutional protection under Article 19 of the Constitution of Islamic Republic of Pakistan, 1973. Needless to observe that fair reporting of judicial proceedings and expression upon matters of public importance are recognized facets of constitutional freedom of speech; however, whether the impugned publication remained within such permissible limits is a matter requiring evidentiary determination.

15. At the stage of section 265-K Cr.P.C., the Court is not required to undertake deeper appreciation of evidence or conclusively determine guilt or innocence of the accused. Existence of prima facie material merely furnishes ground for proceeding and cannot be equated with proof, which is to be determined after recording of evidence. At this stage, the applicant essentially seeks determination of his defence plea without permitting the complainant to lead evidence in support of allegations levelled in the complaint.

16. It is settled law that prosecution cannot be deprived of opportunity of producing evidence under the garb of section 265-K Cr.P.C., particularly in cases where allegations against accused require recording of evidence and determination of disputed factual controversies. The controversy in hand involves questions relating to malice, editorialization, fair comment, good faith, public interest and reputational harm, which cannot conclusively be adjudicated at premature stage without full-fledged trial.

17. Revisional jurisdiction under section 439 Cr.P.C. is supervisory and limited in scope. Unless the impugned order suffers from jurisdictional defect, material illegality, perversity, misreading or non-reading of evidence, interference by this Court is not warranted. No such defect has been pointed out in the impugned order.

18. In view of the above discussion, this Court is of the considered view that the learned trial Court has neither acted illegally nor committed any material irregularity while declining the application under section 265-K Cr.P.C. The impugned order neither suffers from illegality nor material irregularity warranting interference by this Court in exercise of revisional jurisdiction.

19. Consequently, instant Criminal Revision Application being devoid of merits is hereby dismissed alongwith pending application(s).

JUDGE