

## IN THE HIGH COURT OF SINDH AT KARACHI

### **Criminal Misc. Application No.1146 of 2024**

Applicant : Muhammad Tahir  
S/o. Abdul Wahid  
Through Mr. Ahmed Shahmir,  
Advocate

Respondents : Deputy Inspector General of Police &  
Ors  
Through Mr. Sharafuddin Kanhar,  
A. P. G. Sindh

Proposed accused : 1. Shahid Hafeez S/o. Abdul Hafeez.  
2. Zafar Iqbal son of Mushtaq Ali  
Through Ms. Rehanah Khan,  
Advocate.

Date of hearing : 14.05.2026.

Date of Order : 14.05.2026.

### **ORDER**

**Jan Ali Junejo, J:**-- Through this Cr. Miscellaneous Application filed under Section 561-A Cr.P.C, the applicant has assailed order dated 10.10.2024 passed by the learned Additional Sessions Judge-VI, Karachi South, whereby he has dismissed the application of the applicant to register the F.I.R against the proposed accused persons.

2. The facts, as narrated by the applicant are that he is a law-abiding citizen and carries on business of beverages under the name and style of Qitmeer Traders in partnership with Muhammad Saleem. It is alleged that on 15.03.2024, after visiting Lines Area and Noman Square along with proposed accused No.1, the applicant discovered that his cheque book bearing cheque Nos.00000176 to 00000275 of Habib Bank Limited Karimabad Branch, Karachi, maintained in Account No.006317900042503 in the name of Muhammad Tahir, was missing, whereafter he approached P.S. Saddar, Karachi and submitted an application regarding the loss of

the cheque book. Subsequently, on 20.05.2024, the applicant's business partner Muhammad Saleem allegedly received WhatsApp messages and calls from proposed accused No.2, whereby a copy of bounced cheque No.00000233 dated 19.03.2024 for an amount of Rs.3,900,000/- was forwarded, followed by alleged demands for illegal payment and threats that remaining cheques would also be dishonoured. Upon inquiry from the bank, the applicant allegedly came to know on 05.07.2024 that the accused persons had fraudulently filled in the cheque and deposited the same in an account maintained with MCB Bank Limited by forging his signatures. It is further alleged that despite approaching the police authorities and submitting applications, no action was taken against the proposed accused persons. The applicant has also instituted Civil Suit No.1423/2024 against the proposed accused persons before the learned X-Senior Civil Judge, Karachi-South.

3. Thereafter, finding no other way, the applicant filed the application u/s 22-A & B, Cr.P.C in the Court of Sessions Judge, Karachi South which was later transferred to the learned Additional Sessions Judge-VI, Karachi South, vide impugned order dated 10.10.2024 dismissed the said application, hence this application.

4. Learned counsel for the applicant contended that the learned trial court passed the impugned order in a hasty and mechanical manner without properly appreciating the material available on record and without applying judicial mind to the real facts and circumstances of the case. He argued that the alleged offences disclosed in the application are cognizable in nature, therefore, the learned Court below was fully competent to direct the police authorities to record the statement of the applicant under Section 154 Cr.P.C. It was further contended that the impugned order was passed without awaiting the inquiry report regarding the alleged extortive messages and threats extended by the proposed accused persons. Learned counsel further submitted that the learned Court below improperly relied upon the version of the proposed accused persons regarding alleged business dealings and monitoring

obligations, despite the fact that no documentary evidence, agreement, accounts, or ledger was produced by them in support of such plea. He maintained that every citizen has a legal right to report the commission of a cognizable offence and, if ultimately any mala fide is found on the part of the complainant, the law provides remedy under Section 182 Cr.P.C. He has, therefore, prayed that the respondent No. 3 be directed to register the FIR against the proposed accused persons who have committed a cognizable offence.

5. Conversely, learned counsel for proposed accused Nos.1 and 2 opposed the instant application and contended that the cheque in question bearing No.00000233 dated 19.03.2024 amounting to Rs.39,00,000/- was voluntarily issued by the applicant in favour of proposed accused No.2 towards repayment of outstanding business liabilities and, upon its dishonour, FIR No.1830/2024 under Section 489-F PPC was lawfully registered at P.S. Sachal on 07.11.2024, wherein challan has already been submitted and the criminal case bearing SCMO No.11/2025 is presently pending trial before the learned Judicial Magistrate-X, Malir, after framing of charge. He argued that, in order to create a defence in the said criminal proceedings, the applicant subsequently instituted Civil Suit No.1423/2024, another civil suit bearing No.2375/2025, and also filed an application under Section 22-A Cr.P.C., all on the same set of allegations, which amounts to abuse and misuse of the process of law. Learned counsel further contended that the plea raised by the applicant is essentially a defence plea/alibi, which can only be determined during the course of trial after recording of evidence. He maintained that the present proceedings are hit by the principle laid down in the case of Mst. Sughra Bibi, as the applicant seeks registration of a second FIR on the same subject matter already pending adjudication before the competent Court. She further argued that inherent jurisdiction under Section 561-A Cr.P.C. cannot be invoked where an adequate remedy is already available under the ordinary course of law, reliance being placed upon PLD 2004 SC

298. Learned counsel lastly submitted that the present proceedings have been initiated merely to frustrate and circumvent the prosecution under Section 489-F PPC and, therefore, the instant application is liable to be dismissed with costs.

5. On the other hand, learned A.P.G for the State fully supported the impugned order and opposed the present application.

6. I have heard learned counsel for the parties as well as learned A.P.G for the State and have also gone through the material available on record with their able assistance. It is an admitted position on record that FIR No.1830/2024 under Section 489-F PPC has already been registered at P.S. Sachal with regard to cheque No.00000233 dated 19.03.2024 amounting to Rs.39,00,000/-, wherein challan has been submitted and the criminal case bearing SCMO No.11/2025 is presently pending trial before the learned Judicial Magistrate-X, Malir, after framing of charge. It further appears from the record that the present applicant has already availed multiple remedies in respect of the same transaction and subject matter by instituting Civil Suit No.1423/2024, another civil suit bearing No.2375/2025, as well as proceedings under Sections 22-A & 22-B Cr.P.C. The core controversy between the parties revolves around the question whether the cheque in dispute was voluntarily issued towards discharge of business liability, as alleged by the proposed accused persons, or whether the same was stolen and subsequently misused by forging the signatures of the applicant, as alleged by the applicant. Such disputed questions of fact, requiring appreciation of evidence, recording of testimony, and determination of authenticity of documents and signatures, cannot appropriately be adjudicated upon in the exercise of inherent jurisdiction under Section 561-A Cr.P.C. or in proceedings seeking registration of FIR.

7. It is also significant to note that the applicant has already taken up the plea before the competent trial Court where proceedings arising out of FIR No.1830/2024 are pending

adjudication. The plea now raised by the applicant appears to be in the nature of defence against the prosecution initiated under Section 489-F PPC, which can adequately be agitated before the trial Court at the appropriate stage. The law is well-settled that where a matter is already sub judice before a competent Court and the dispute essentially arises out of the same transaction, registration of another FIR on the same disputed cheque is not warranted, particularly when such exercise may result in conflicting findings and parallel criminal proceedings. Furthermore, the applicant has already availed civil remedies with respect to the alleged misuse of cheque and the question regarding genuineness or otherwise of the disputed cheque can effectively be examined by the competent Courts seized of the matter.

8. There are many precedents/instances regarding misuse of provisions of Section 22-A & B, Cr.P.C and it is the basic duty of the Court that such misuse be taken care of and such an application should not be treated lightly and decided in a mechanical manner for issuing directions to police for lodging the F.I.R, conducting investigation and prosecuting the alleged accused.

9. 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”.

10. It is the duty of the Justice of Peace that while scanning averments of application for registration of F.I.R, he must apply his judicial mind and adjudge the entire set of allegations cautiously. Justice of Peace is not bound to issue direction to police in each and every case to record the statement of complainant if apparently no cognizable offence is made out or complaint is tainted with malice and based on ulterior motives, he can call for a report from SHO concerned to examine the authenticity of the allegations leveled against the defending party. Justice of Peace should also keep in his mind the aspect that any direction issued unnecessarily or in routine manner may cause humiliation, harassment and mental agony to the proposed accused and it would take years to conclude the trial of the case arisen out of any FIR.

11. For what has been discussed above, it appears that the applicant has failed to make out any case for taking cognizance of offence and no illegality has been committed by the learned trial court / Justice of Peace while passing the impugned order. Resultantly, instant Criminal Miscellaneous Application is dismissed.