

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Misc. Appln. No.349 of 2025

Applicant

Abdul Hameed Mahar : through Mr.Zaheer Ahmed Ujjan,
Advocate.

Respondent,

Ghulam Hussain. : through Mr. Noor Muhammad Siyal,
Advocate.

The State : through Mr. Muhammad Raza Katohar,
Deputy Prosecutor General Sindh.

Date of hearing. : 29.07.2025

Date of Order. : 29.07.2025

ORDER

Jawad Akber Sarwana,J.: The Counsel for the applicant, Abdul Hameed Mahar/proposed accused in CrI. Misc. Application No.976 of 2025 filed before Ex-Officio Justice of Peace, Ghotki, contends that he had purchased from Ghulam Hussain (the Seller) a residential house, the transaction of which was reduced into an agreement executed between the parties. In this connection, Abdul Hameed ("the buyer") handed over four (4) cheques to Ghulam Hussain, which were meant for guaranteeing the underlying transaction, but Ghulam Hussain presented two out of the four cheques for collection, and two cheques were dishonoured. When the two cheques were dishonoured, Ghulam Hussain approached the Police Station to complain, but the Police refused to lodge an FIR. Hence, Ghulam Hussain proceeded to file the above CrI. Misc. Application and obtained a favourable order dated 02.06.2025 from the Ex-Officio Justice of Peace directing the Police to record his Statement and if from such statement a cognizable offence is made out, then to register an FIR. Abdul Hameed contended that the impugned Order dated 02.06.2025 was defective and contrary to law. He argued that the Ex-Officio Justice of Peace overlooked that the cheques presented were of differing dates, and the amount mentioned on the cheque was different from those mentioned in the pleadings.

2. Learned counsel for respondent Ghulam Hussain argued that the ingredients of Section 489-F PPC had been met. He had produced a photocopy of the account maintenance certificate bearing the account title issued by the Bank and proof that the two cheques were dishonoured. All the information was

available on record, and no illegality was pointed out in the impugned order passed by the learned Ex-Officio Justice of Peace.

3. Learned Deputy Prosecutor General supported the Order of Ex-Officio Justice of Peace and submitted that a cognizable offence had been made out.

4. Heard Counsel. It is a settled proposition of law that the application u/s 22A(6)(i) Cr. P.C. is made out for determination as a first step whether a cause for recordal of a Statement is made out, which may culminate in registration of an FIR. In the present case, the submissions articulated by the applicant/ Abdul Hamid in of itself constitute information which requires under the law to be recorded, whereafter the concerned Office can make a determination if a crime is made out to register an FIR and make further inquiry/investigation as to the alleged crime(s). There can be no culpability assigned to the proposed accused of an FIR at this stage, as it is only after the recording of the Statement and gathering of relevant materials by the Law Enforcement Officer that a determination can be made concerning the filing of an FIR.

5. In the present case, the applicant/ Abdul Hameed obtained a stay order from this High Court; hence, no subsequent proceedings have taken place pursuant to the impugned order, including inquiry and/or any investigation as to the case, as may be. This Court, exercising powers under Cr.P.C., is minded to go into a fact-finding exercise, and the same was the case for the Ex-Officio Justice of Peace, who was restrained from conducting such an exercise too. Accordingly, the impugned order does not appear to suffer from any illegal defect and does not demonstrate any abuse of law; hence, this bench does not find any grounds to intervene in the same.

6. For the above reasons the instant application stands dismissed.

J U D G E

Ihsan/PS.