

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Revision Appln. No. S-103 of 2025

Applicants : More son of Janan, by caste Kosh,
Through Mr. Abdul Majeed Memon, Advocate

The State : Through Mr. Muhammad Raza Kaohtar, DPG

Date of Hearing : 18.12.2025

Date of Decision : 18.12.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— The applicant, More, has invoked the inherent powers of this Court under Section 561-A Cr.P.C. to challenge the patently unjust order dated 24.11.2025 rendered by the learned Additional Sessions Judge, Daharki, in Appeal No.26/2025. This appeal assailed the judgment dated 18.09.2025 delivered by the learned IInd Civil Judge & Judicial Magistrate in Criminal Case No.198/2024 (*The State v. More*), wherein the applicant stood convicted under Section 4 of the Prohibition (Enforcement & Administration) Ordinance, 1979 (PEHO), and sentenced to two years' rigorous imprisonment alongside a fine of Rs.10,000/-, with further simple imprisonment of 15 days in default, albeit with the benefit of Section 382-B Cr.P.C. Regrettably, the appellate court peremptorily dismissed the appeal for non-prosecution, perpetuating a grave procedural infirmity.

2. Learned counsel for the applicant forcefully contends that on 24.11.2025, the appeal came up for hearing before the appellate court. The applicant was present on the first call, yet upon his brief absence from the courtroom, perhaps for a legitimate reason the case was precipitously called on the second call and dismissed ex parte for non-prosecution. Such hasty adjudication offends the sacrosanct mandate of Section 423 Cr.P.C, which compels the appellate court to apply a judicious mind, afford a fair opportunity of hearing, and eschew mechanical dismissals. This aberration not only vitiates the impugned order as perverse and contrary to law but also imperils the applicant's fundamental right to due process under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. Counsel thus beseeches this Court to set aside the order and remand the matter for fresh adjudication post-hearing.

3. The learned Deputy Prosecutor General for the State, in a candid concession, acknowledges the precipitate nature of the impugned order, which deprived the applicant of his inviolable right to be heard, a cornerstone of natural justice. He raises no demurrer to the prayer for remand, affirming the manifest procedural lapse.

4. Having heard counsel for both sides at length and meticulously perused the record, this Court finds the applicant's grievance unassailable. It is incontrovertible that on 24.11.2025, the appeal stood fixed for hearing, and per counsel's averment corroborated on the record, the applicant appeared on the first call. His momentary exit from the courtroom, however innocuous, cannot justify the appellate court's precipitate dismissal for non-prosecution, compounded by issuance of notice under Section 514 Cr.P.C to the surety while the applicant remained on bail. To condone such procedural myopia would erode the edifice of appellate justice and flout Article 10-A's guarantee of fair trial and due hearing.

5. In the interests of unerring justice, the impugned order dated 24.11.2025 stands set aside. The matter is remanded forthwith to the learned Additional Sessions Judge, Daharki, with the imperative direction to afford the applicant a full opportunity of hearing and adjudicate the appeal afresh on merits, untrammelled by prior proceedings.

6. The instant Revision Application, along with pending application(s), accordingly stands disposed of.

J U D G E