

IN THE HIGH COURT OF SINDH, KARACHI
Cr. Revision Application No.238 of 2025

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Khalid Hussain Shahani

Applicant:- Tara Chand through Mr. Tariq Hussain,
advocate.

Respondent No. 1:- None present.

Mr. Khaleeq Ahmed, DAG along with Mr. Mushtaq
Ahmed Leghari, Official Assignee. Mr. Nisar Ahmed
Mallah, advocate.

Date of hearing:- 23.04.2026

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MUHAMMAD IQBAL KALHORO J: Applicant is standing a trial before the Banking Court No.III, Karachi in Cr. Complaint No.07/2016 filed by respondent No. 1 M/s. Askari Bank Limited. He has filed this application against the order dated 23.08.2025 whereby his application u/s 265-K CrPC seeking premature acquittal has been dismissed.

2. The allegations against the applicant are that he has committed default in his financial obligations to the bank and has also committed act of criminal nature u/s 20 (1) (a) and (b) of the Financial Institutions (Recovery of Finances) Ordinance, 2001.

3. His counsel has argued that besides direct complaint, the bank had filed a suit against applicant and respondent No. 2 Ashok Kumar, co-accused, who has since been acquitted u/s 265-K CrPC, which was decreed and the decree has been satisfied in execution application; hence the bank issued no liability certificate and filed an application for disposal of execution application on account of satisfaction of decree; that after satisfaction of the decree and disposal of execution application, no liability remains against the applicant; the bank has already issued a no liability certificate dated 13.08.2024 in favour of applicant; that despite the decree fully satisfied and acquittal of the co-accused respondent No. 2 u/s 265-K CrPC, the criminal complaint is still pending which is nothing but miscarriage of justice; that pendency of the criminal complaint after satisfaction of a decree and no liability certificate amounts to abuse of process of law; that such documents are

sufficient to establish that no offence has been committed by the applicant.

4. On the other hand learned DAG and other advocates have opposed this application.

5. The record shows that earlier to this, applicant had also filed an application u/s 265-K CrPC before the Banking Court which was allowed but the order was challenged by the bank before this Court in Appeal No.797/2019 which was decided by a Division Bench of this Court vide judgment dated 18.03.2022 remanding the case to the trial Court for recording evidence first. It appears that this order was challenged by the applicant in Supreme Court. It was only when the fact of such appeal in Supreme Court was communicated by other side in arguments, learned counsel for applicant filed a statement today, which is dated 15.04.2026, and an order of the Supreme Court dated 07.04.2026 showing that in view of pendency of this application applicant has withdrawn the Appeal No.55-K/2022.

6. Be that as it may, we have seen that the trial Court has simply dismissed the application on the ground that earlier, its order acquitting applicant u/s 265-K CrPC was set aside by this Court and this Court had observed that the application (was premature) as the evidence was yet to be recorded. It goes without saying that there is no stage fixed for moving an application either u/s 249 CrPC or u/s 265-K CrPC or that if such application has been dismissed, a fresh one cannot be moved at a proper stage. The fact that the order of the Banking Court acquitting the applicant u/s 265-K CrPC was set aside by this Court and the observations were made to record evidence would not mean that trial Court's power u/s 265-K CrPC had been taken away for all time to come, and it is barred from taking into account the due merits at the time of deciding a fresh application in this regard.

7. It may be said that whenever such application is filed; the trial Court has to decide it by considering the relevant merits and not to get influenced by the fact that its earlier order when challenged before this Court had been set aside. More so, when this Court had not decided the application on merits, but had remanded the case. Further, the trial Court should have considered that the order to record evidence was passed on 22.02.2022 and despite lapse of more than three and half years, the bank had failed to produce/lead any evidence in compliance of such order.

8. In the circumstances, the trial Court was required to consider all the relevant material available on record and decide the application u/s 265-K CrPC on merits, instead of dismissing it on technical ground such as above. Now since the appeal questioning the order of this Court remanding the case back to the trial Court has been withdrawn by the applicant from the Supreme Court, we set aside the impugned order, remand the matter to the trial Court to consider and decide the application u/s 265-K CrPC afresh purely on merits after affording an opportunity of hearing to all the parties and decide it within a period of one month without fail.

The Cr. Revision Application is accordingly disposed of in above terms along with pending application.

JUDGE

JUDGE

HANIF