

**THE HIGH COURT OF SINDH, CIRCUIT COURT AT
HYDERABAD**

Criminal Revision Application No.S-12 of 2026

Applicant: Rasool Bux alias Rasoolo through Mr. Ahad Khan Kaka advocate who holds brief on behalf of Mr. Badal Gahoti, Advocate.

Respondent No.1: Hadi Bux through Syed Shafique Ahmed Shah, Advocate.

Respondent No.2: The State through Mr. Irfan Ali Talpur, D.P.G. Sindh.

Date of hearing: 11.05.2026.

Date of Judgment: 11.05.2026.

ORDER

RIAZAT ALI SAHAR, J. The applicant, namely Rasool Bux alias Rasoolo, has assailed the legality and propriety of the order dated 17.12.2025 passed by the learned Additional Sessions Judge, Matiari, in Sessions Case No.233 of 2023 titled The State v. Rasool Bux and others, whereby the application filed by respondent No.1/complainant under section 540 Cr.P.C., seeking issuance of summons to PW Deedar Ali Khoso, stated to be an eye-witness of the incident, was allowed. Through the instant criminal revision application, the applicant seeks setting aside of the impugned order.

2. Learned counsel for the applicant contended that the name of PW Deedar Ali Khoso was admittedly not cited in the final report submitted under section 173 Cr.P.C.; however, despite such omission, the learned trial Court erroneously allowed the application under section 540 Cr.P.C. for his examination as prosecution witness. According to the learned counsel, once the witness was not shown in the challan submitted before the Court, he could not subsequently be examined during trial and therefore, the impugned order suffers from illegality and material irregularity. He, therefore, prayed that the impugned order be set aside and the application filed by the complainant be dismissed.

3. Conversely, learned counsel appearing for respondent No.1/complainant vehemently opposed the revision application and contended that the evidence of PW Deedar Ali Khoso is essential for the just decision of the case, as he is an eye-witness to the occurrence. He contended that although the said witness was not cited in the initial challan, during re-investigation his statement under section 161 Cr.P.C. was duly recorded by the investigating officer; therefore, his examination during trial has become necessary for arriving at a just and proper conclusion. Learned counsel further contended that the scope of section 540 Cr.P.C. is very wide and empowers the Court to summon any person as witness if his evidence appears necessary for the just decision of the case. He accordingly prayed for dismissal of the instant revision application.

4. Learned Deputy Prosecutor General Sindh supported the submissions advanced on behalf of respondent No.1/complainant and contended that the impugned order has been passed strictly in accordance with law and does not call for interference by this Court.

5. Heard learned counsel for the parties and perused the available record with their able assistance.

6. The record reflects that during the initial investigation, the name of Deedar Ali Khoso was not included in the final report submitted under section 173 Cr.P.C. However, subsequently, upon constitution of a board by the Deputy Inspector General of Police, Hyderabad, re-investigation of the matter was ordered and entrusted to DSP Siraj Ahmed Lashari, SDPO Market, Hyderabad. During the course of such re-investigation, the statement of Deedar Ali Khoso under section 161 Cr.P.C. was recorded.

7. It is by now well-settled that the object of section 540 Cr.P.C. is to empower the Court to discover the truth and to ensure that no failure of justice occurs on account of omission to examine a material witness. The provision confers wide discretionary powers upon the trial Court to summon any person as a witness at any stage of the proceedings if his evidence appears to be essential for the just decision of the case. The mere fact that the witness was not cited in the report under section 173 Cr.P.C. does not create an absolute bar against his examination, particularly when subsequently during re-

investigation his statement under section 161 Cr.P.C. has been brought on record and his testimony appears relevant and material for proper adjudication of the controversy involved.

8. It is also significant to note that the trial Court itself possesses ample authority to summon any person as a Court witness where the exigencies of justice so require. The paramount consideration before the Court is always the just decision of the case and discovery of truth rather than adherence to mere technicalities. In the present matter, the learned trial Court, after considering the material available on record, rightly formed the opinion that the evidence of PW Deedar Ali Khoso is necessary for proper adjudication of the case. The discretion exercised by the learned trial Court appears to be judicial, lawful and based upon sound reasons.

9. For what has been discussed above, I find no illegality, perversity, arbitrariness, or material irregularity to have been pointed out in the impugned order warranting interference by this Court in its revisional jurisdiction. Consequently, the instant criminal revision application, being devoid of any merit, is hereby **dismissed**.

J U D G E