

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Miscellaneous Application No.S-55 of 2024

Present: Justice Jawad Akbar Sarwana

Applicant : Mst.Mehnazwd/o Pir Noor Shah
Through M/s Muhammad SullemanUnar and
Asad Ali Jatoi, Advocates

RespondentNo.1 : The State, through Mr.Irfan Ali Talpur, D.P.G

Respondent No.2 : Ghulam Farooque s/o Muhammad Amin Samo
Through Mr.Ghulam Mustafa Channa, Advocate

Date of hearing : **18.11.2025**
Date of decision : **18.11.2025**
Date of reasons : **17.10.2026**

ORDER

JAWAD AKBAR SARWANA, J:Through this Criminal Miscellaneous Application, Mst.Mehnaz has impugned the Order dated 13.01.2024, passed by the learned VIII-Additional Sessions Judge, Hyderabad in Criminal Revision Application No.51/2023, wherein after hearing the parties the learned VIII-Additional Sessions Judge, Hyderabad dismissed the application for acquittal of the accused/applicant holding that the principle of double-Jeopardy in the instant case involving two cheques issued by the applicant no criminal case was made out.

2. The brief background of the matter is that the complainant/respondent No.2 Ghulam FarooqueSamo had been issued a Cheque No.22727733 dated **17.02.2020**, in the sum of Rs.1,500,000/-, which got dishonoured. The said cheque became the basis of FIR No.31/2020, under Sections 489-F, 506/2, 504, 34 P.P.C

lodged at Police Station Cantonment, Hyderabad. The criminal proceedings ensued against the applicant by the complainant Ghulam Farooque, which culminated in the Judgment dated 28.4.2022 in Criminal Case No.1233/2021, wherein the learned Civil Judge & Judicial Magistrate-I/Model Trial Magistrate Court-II, Hyderabad (**“the trial Court”**), acquitted the applicant Mst.Mehnaz. During the pendency of the trial proceedings, the applicant also filed Criminal Bail Application No.1544/2021, wherein the bail was allowed by the trial Court vide Order dated 11.9.2021, on the ground that the parties had entered into a compromise and the complainant returned the original cheque in his possession to the applicant. It transpires that at this point, the applicant issued another fresh cheque No.1753810882 dated 12.01.2023, for sum of Rs.11,500,000/-. However, this cheque also bounced and complainant Ghulam Farooque registered FIR No.06/2023 under Section 489-F P.P.C at Police Station City, Hyderabad. Once again the applicant applied for bail, which was ultimately granted by the High Court in CrI. Bail Application No.S-161/2023 vide Order dated 15.5.2023. Thereafter, the applicant filed an application under Section 403 Cr.P.C before the trial Court to acquit him as the case was not triable on the ground of double-jeopardy. The trial Court dismissed the said application vide Order dated 18.11.2023 and subsequently the Revision Application filed by the applicant was also dismissed vide impugned Order date 13.01.2024.

3. Heard counsel for the parties as well as learned D.P.G. It is apparent from the facts of the case that the second round of criminal prosecution between the parties pertains to the subsequent cheque given by the applicant to the complainant during the pendency of bail application. Counsel’s contention that once the cheque had been returned to the applicant, the complainant could not

initiate criminal proceedings against the applicant on the ground of double-jeopardy does not appear to be correct. Clearly the applicant/accused issued a fresh cheque during the course of the bail proceedings in consideration of concession of bail. The purpose of the cheque was a compromise and the fruit of the compromise was the concession of bail which the applicant enjoyed during the trial proceedings. Even though, the trial proceedings came to an end in her favour with an acquittal, yet at the same time she enjoyed the concession of bail on account of the fresh cheque which she had given to the complainant. This fresh cheque bounced and therefore, the complainant has lodged an FIR under Section 489-F P.P.C. The ingredients of the said provision require evidence in the context of fresh grounds and new facts. The criminal proceeding in respect of first compromise has been concluded and a fresh cause has arisen based on a verbal understanding/agreement of the concession of bail for which the applicant issued a fresh cheque. Now that the second cheque has been dishonoured, it remains to be proved whether the ingredients of Section 489-F P.P.C can be made out. As this is a triable issue, the trial Court has rightly dismissed the application to acquit the accused/applicant.

4. I do not find any irregularity or an illegality in the impugned order. The same are well reasoned and do not suffer from any defect. Accordingly, this Criminal Miscellaneous Application was **dismissed** by me on 18.11.2025 and the above are the reasons for the same.

JUDGE