

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Misc. Application No.S-64 of 2026

(Muhammad Bachal v. SHO, P.S, Sarhad & others)

Applicant : Muhammad Bachal through Mr. Abdullah Brohi, Advocate.

Private Respondent No.4 : Gaman Boohar through M/s Badaruddin Memon and Syed Hajan Shah, Advocates.

The State : Through Mr. Muhammad Raza Katohar, Deputy P.G

Date of Hearing : 31-08-2026

Date of Order : 04-09-2026

ORDER

TASNEEM SULTANA, J.- Through the instant Criminal Miscellaneous Application under Section 561-A, Cr.P.C., the applicant has assailed the order dated 23.01.2026 passed by learned Additional Sessions Judge-I/Ex-Officio Justice of Peace, Mirpur Mathelo, in Criminal Miscellaneous Application No.95 of 2026, whereby the SHO, Police Station Sarhad, was directed to record the version of respondent No.4 under Section 154, Cr.P.C. and, if a cognizable offence was made out, to register the FIR and proceed in accordance with law.

2. Briefly, respondent No.4 Gaman Boohar approached the learned Ex-Officio Justice of Peace under Section 22-A(6)(i), Cr.P.C. alleging that in June 2025, the applicant obtained Rs.20,00,000/- from him for business purposes and, on demand for return of the amount, issued cheque No.20525169 dated 22.10.2025 for Rs.20,00,000/-, drawn on Bank Alfalah Limited, Khairpur Branch. According to respondent No.4, the cheque was presented through his account maintained at MCB Umar Daho (Sarhad) but was returned unpaid on 12.11.2025 with the endorsement “*INSUFFICIENT BALANCE IN DRAWER’S ACCOUNT*”. He further alleged that despite repeated demands the amount was not paid. Since the police did not register his case, he approached the learned Ex-Officio Justice of Peace, who called reports from the concerned SHO and DSP Complaint Cell and thereafter passed the impugned order.

3. Learned counsel for the applicant contended that the impugned order was passed without proper consideration of the material available on record;

that the applicant's cheque-book, original CNIC and ATM card of Bank Alfalah had already been lost, regarding which an NC was lodged at Police Station Kotdiji on 04.09.2025; that the applicant neither knows respondent No.4 nor had any financial transaction with him; that the signature appearing on the disputed cheque is forged; and that the cheque had been filled in English whereas the applicant used to fill his cheques in Urdu. According to learned counsel, respondent No.4 has set up a false transaction, and the impugned order is, therefore, liable to be set aside.

4. Learned counsel for respondent No.4 supported the impugned order and submitted that respondent No.4 had specifically disclosed the transaction against which the cheque was issued and had also placed the cheque and bank memo before the learned Ex-Officio Justice of Peace. Learned D.P.G. for the State also supported the impugned order.

5. Heard learned counsel for the parties and learned D.P.G for the State. Record has been perused.

6. The applicant's case is that his cheque-book, original CNIC and ATM card of Bank Alfalah had already been lost and that an NC in that regard was lodged at Police Station Kotdiji on 04.09.2025, before the date borne by the disputed cheque. He has also denied knowing respondent No.4, denied the alleged financial transaction and disputed the signature appearing on the cheque. Respondent No.4, on the other hand, has specifically alleged that the applicant obtained Rs.20,00,000/- from him for business purposes and thereafter issued cheque No.20525169 dated 22.10.2025 towards return of that amount, which was dishonoured on presentation for insufficient balance.

7. These assertions give rise to the disputed questions of fact. Whether the cheque in question formed part of the cheque-book reported lost by him, whether the signature appearing thereon is genuine or forged, how the cheque came into possession of respondent No.4 and whether the alleged financial transaction actually took place are matters which require investigation. The NC dated 04.09.2025 would be relevant during investigation and would have to be considered along with the other material. Likewise, the plea that the cheque was filled in English whereas the applicant claims that he used to fill his cheques in Urdu does not, by itself, determine whether the cheque was issued by him.

8. Such disputed questions are not meant to be finally resolved in proceedings under Sections 22-A and 22-B, Cr.P.C. In the case of Younas Abbas and others v. Additional Sessions Judge, Chakwal and others (PLD 2016 SC 581), the Honourable Supreme Court, while examining the nature of functions performed by an Ex-Officio Justice of Peace under Section 22-A(6), Cr.P.C., observed as under:

“11. The functions, the Ex-officio Justice of Peace performs, are not executive, administrative or ministerial inasmuch as he does not carry out, manage or deal with things mechanically. His functions as described in Clauses (i), (ii) and (iii) of subsection (6) of Section 22-A, Cr.P.C., are quasi-judicial as he entertains applications, examines the record, hears the parties, passes orders and issues directions with due application of mind. Every lis before him demands discretion and judgment.”

The above principle shows that the learned Ex-Officio Justice of Peace is required to exercise discretion with due application of mind to the material placed before him. He is not, however, required at that stage to finally determine the truth or falsity of disputed factual assertions.

9. In the present case, respondent No.4 specifically alleged that Rs.20,00,000/- had been advanced to the applicant and that the disputed cheque was issued towards return of that amount. Copies of the cheque and bank memo were also placed before the learned Ex-Officio Justice of Peace. The applicant disputes the transaction and claims that the cheque had been lost or misused. The correctness of these competing versions could not appropriately be determined in proceedings under Sections 22-A and 22-B, Cr.P.C.

10. The impugned order further shows that reports were called from the concerned SHO and DSP Complaint Cell before the matter was decided. More importantly, the learned Ex-Officio Justice of Peace did not direct registration of an FIR in absolute terms. The SHO was directed to record the version of respondent No.4 under Section 154, Cr.P.C and, if a cognizable offence was made out, to register the FIR and proceed in accordance with law. The direction, therefore, does not call for interference.

11. The applicant has also sought a direction restraining the police from recording the statement of respondent No.4 and from registering an FIR against him. Such a direction cannot be issued merely on the basis of the defence raised by the applicant. He may place the NC dated 04.09.2025 and all other material

concerning the alleged loss of his cheque-book, original CNIC and ATM card of Bank Alfalah, disputed signature and denial of the transaction before the Investigating Officer, who shall examine the same fairly and in accordance with law. Recording of information or investigation does not amount to a finding of guilt.

12. In these circumstances, the order dated 23.01.2026 does not suffer from any illegality or jurisdictional defect calling for interference by this Court under Section 561-A, Cr.P.C. The instant Criminal Miscellaneous Application along with pending application(s), if any, is accordingly **dismissed**.

J U D G E

Ahmad