Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Misc. Application No.S-517 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

For orders on office objections.
For hearing of main case.
For orders on stay application.

28-09-2026

Mr. Imtiaz Ali Abbasi, advocate for the applicant.

Ms. Fareeda Naz, advocate for respondent No.3.

Ms. Sana Memon, Assistant Prosecutor General, Sindh.

JAWAD AKBAR SARWANA, J:- Qazi Rafiq Ullah Qureshi s/o Qazi Qadir Bux, by case Qureshi/proposed accused in Criminal Miscellaneous Application No.5121 of 2026, is aggrieved by the order dated 06.08.2026 passed by the 8th Additional Sessions Judge/Ex-Officio Justice of Peace, Hyderabad in a complaint filed by the respondent no.3/complainant, Mst. Sher Bano w/o Muhammad Hassan.

Counsel for the applicant/proposed accused contends that the proposed accused, son of complainant Mst. Sher Bano, namely Ali Hassan, had entered into an agreement for the alleged sale of a flat and, in this connection, issued three cheques in the sum of Rs.50,000/- each, and also made certain payments allegedly in the sum of Rs.11 lacs. He contends that no case is/was made out for dishonoured cheques under the provisions of law. Yet the Ex-Officio Justice of Peace passed the impugned Order dated 06.08.2026 which is contrary to law. Counsel for respondent No. 3/complainant has produced a memo of return in the sum of Rs.850,000/-, with the bank's observations that the drawer's account had insufficient funds. Based on these findings, the Ex Officio Justice of Peace passed orders to record the complainant's statement.

I have read the impugned order and, based on a tentative reading of the information alleged by the parties available on record, I find that this is a fit case for recording the statement of respondent no.3/complainant under the provisions of Sections 22A & 22B Cr. P.C. It was not the domain of either Ex-Officio Justice of Peace and certainly not for this bench within the same (said) provisions to take a deep dive into the facts in play in this dispute between the two parties. Indeed,

as per law, any person who has information about an offence having been committed is entitled to provide such information to the Police Station. Once such information is provided, it is up to the police officer to determine whether any offence is revealed and, if so, whether it is cognizable or non-cognizable; the police authorities may then take appropriate action. The Criminal Procedure Code and Police Rules provide ample guidance to police officers on how to proceed in either situation, as well as when false information has been provided.

The applicant/proposed accused is aggrieved that the complainant's averments are contrary to the facts and record and that, in the instant case, the direction by the Ex-Officio Justice of Peace to record the complainant's statement will lead to registration of an FIR against him. It is now well settled in several judgments of Superior Courts that a mere direction to record a statement does not necessarily culminate in the registration of an FIR. Indeed, where a direction to record a statement has been issued, the police officer is expected to apply his own mind and act in accordance with law. The situation is no different in the present case.

Given the above, I do not find any illegality or irregularity in the impugned order dated 06.08.2026 passed by 8th Additional Sessions Judge/EX-Officio Justice of Peace, Hyderabad, in Criminal Miscellaneous Application No.5121 of 2026. It is hoped and expected that the concerned police officer recording the statement shall proceed in a fair, neutral, professional, and competent manner and shall not arrest any person without evidence of his culpability.

The Criminal Miscellaneous application is disposed of in the above terms along with pending applications.

J U D G E

Irfan Ali