ORDER SHEET

IN THE HIGH COURT OF SINDH, AT KARACHI

Cr.Rev.Application No.223 of 2026

Date | Order with Signature(s) of Judge(s)

Presents:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Jawad Akbar Sarwana

1. For hearing of main case
2. For hearing of MA No.16484/26

04.11.2026

Mr. Umer Sikandar, advocate for applicant.
Mr. Manzoor Arain, advocate for respondents No.1,2 & 4.
Mr. Shahrukh Khan Brohi, advocate for respondent No.3.
Mr. Khaleeq Ahmed DAG.

O R D E R

MUHAMMAD IQBAL KALHORO J:- Applicant is a Bank, has lodged a complaint before the Banking Court against respondents for the offence under section 20 FIO, 2001 alleging removal of hypothecated stock from the designated premises without fulfilling obligations. In the trial, applicant filed an application seeking examination of second attorney, as a witness, namely Asif Raza. The same application was resisted by the respondent and has been dismissed by way of impugned order.

2. Learned counsel for applicant submits that second witness is the attorney and co-complainant, he is not stranger in the proceedings and his evidence is necessary to resolve the issue.

3. Learned counsel for respondents have opposed his plea stating that this is an attempt to fill in lacuna left by the first attorney in the cross-examination admitting that the site was not inspected for confirming flight of hypothecated stock illegally, as alleged, before filing of the complaint and that there is no mention of such fact in the complaint.

4. Learned DAG has however, opposed the impugned order stating that under section 540 Cr.P.C. the Court can summon any person as a witness and can also recall and re-examine a person already examined.

5. We have heard the parties and perused the impugned order. The only anxiety, the counsel for the respondents have shown, is that by examining the proposed witness, the admissions allegedly made by the attorney/complainant in his cross-examination would go away leaving them vulnerable. Because, the evidence of the proposed witness is aimed at filling up the lacunas left by the complainant.

6. However, we are not persuaded by this argument. Because whatever admissions have been made by the first attorney of the Bank would always remain a part of the record and would be appreciated by the trial court in the final analysis. At the same time, it may be said, any new fact to be stated by the proposed witness would be subject to cross-examination and then its probative value would be seen according to law. It is settled that any improvement in the evidence describing a fact different than the one already available on record has its own merits and de-merits that are to be construed not in isolation but in the context of entire material.

7. The complaint has been filed under the Special Law, FIO, 2001. The cases thereunder are not decided on the basis of evidence of a sole witness. But the impact of entire evidence coupled with the documents filed by the Financial Institution are to be taken into consideration together to determine whether any offence as alleged has been committed or not. Since the Bank wants to examine none other than co-attorney who along with the complainant has filed the complaint, and is not a stranger to the proceedings. In our view, his evidence will not prejudice any right of the accused in any manner.

8. Therefore, we set aside the order and allow this application. Resultantly, complainant may examine proposed witness in the complaint.

9. Learned counsel for respondents submit at this juncture that the case is fixed on 11.11.2026, the learned counsel for the applicant may be directed to bring the said witness on the said date so that his evidence could be recorded. Learned counsel for the applicant undertakes that the said witness would be produced in the court on the said date for the above purpose.

10. This criminal revision application is accordingly, disposed of along with listed application.

JUDGE

JUDGE

Imran