

IN THE HIGH COURT OF SINDH, SUKKUR BENCH AT SUKKUR

*Criminal Miscellaneous Application No. S-169 of 2026.
(Hafeezullah vs The State and others)*

Applicant : Hafeezullah Mashori,
through Mr. Shabbir Ali Bozdar,
Advocate

Respondent No. 1 to 4 : State and others, through Syed
Sardar Ali Shah, Additional
Prosecutor General.

Respondent No.5 : Shahid Hussain through
Mr. Muhammad Achar Panhwar
Advocate.

Date of hearing : 11th May, 2026
Date of Order : 11TH May, 2026.

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ORDER

ALI HAIDER 'ADA', J:- The Applicant has assailed the order dated 27.02.2026, passed by the learned Additional Sessions Judge-III/Ex-Officio Justice of Peace, Naushahro Feroze, whereby an application under Sections 22-A & 22-B, Cr.P.C., filed by Respondent No. 5 was allowed, with directions to the concerned police to record his statement and, if a cognizable offence is disclosed, to incorporate the same under Section 154, Cr.P.C.

2. The precise case of the complainant/Respondent No. 5 is that the present Applicant, in discharge of his liability arising out of a business transaction namely purchase of 600 bags of cement issued a cheque amounting to Rs. 11,21,500/-. However, upon presentation, the said cheque was dishonoured by the concerned bank, which prompted the Respondent No. 5 to file an application under Sections 22-A & 22-B, Cr.P.C. before the learned Ex-Officio Justice of Peace, seeking registration of an FIR.

3. At the very outset, learned counsel for the Applicant contends that admittedly the dispute between the parties arises out of a business transaction of civil nature. It is argued that the Respondent No. 5, by misleading the Court, invoked the jurisdiction under Sections 22-A & 22-B, Cr.P.C, despite the matter being purely civil. It is further contends that the cheque book of the Applicant had been misplaced, for which a non-cognizable report (N.C.) was lodged at the concerned police station, and instructions for stoppage of payment were also communicated to the concerned bank. According to the learned counsel, such material was placed on record; however, the learned Justice of Peace failed to consider the same while passing the impugned order, rendering it unsustainable in law.

4. Conversely, learned counsel for Respondent No. 5/complainant opposed the application and submitted that the defence set up by the Applicant regarding misplacement of the cheque is a concocted story. He maintained that the cheque was issued towards discharge of a lawful liability, and its dishonour has conferred upon the complainant a legal right to proceed in accordance with law. He lastly contends that the impugned order is well-reasoned and does not call for any interference by this Court.

5. Learned Additional Prosecutor General, while supporting the impugned order, submitted that the learned Ex-Officio Justice of Peace has rightly exercised jurisdiction by forming a tentative opinion regarding the existence of a cognizable offence. He argued that at this stage only a prima facie assessment is required, and the veracity of the allegations as well as the defence of the Applicant are matters to be determined during the course of investigation; therefore, no interference is warranted.

6. Heard the learned counsel for the parties and perused the material available on record.

7. The defence material, if any, which requires appreciation or verification, is to be examined by the competent forum/investigating agency in accordance with law. It is well-settled that such material, particularly where it necessitates deeper probe and evidentiary assessment, cannot be conclusively evaluated at the stage of proceedings under Sections 22-A & 22-B, Cr.P.C. The plea of misplacement of the cheque book, as well as the alleged issuance of a letter to the concerned bank for stoppage of payment prima facie appears to be a matter requiring thorough investigation and may even, subject to evidence, be an afterthought. Determination of the genuineness or otherwise of such pleas squarely falls within the domain of the investigating agency.

8. At this stage, the learned Ex-Officio Justice of Peace is only required to form a tentative opinion as to whether the facts disclosed constitute a cognizable offence. The Justice of Peace cannot assume the role of an investigating officer by conducting a detailed inquiry into disputed questions of fact or by adjudicating upon the defence of the accused. In this regard, reliance is placed upon the dictum laid down by the Honourable Supreme Court of Pakistan in the case of **Syed Qambar Ali Shah vs. Province of Sindh and others (2024 SCMR 1123)**, wherein the scope of jurisdiction of the Justice of Peace has been clearly delineated.

9. The record reflects that a cheque was admittedly issued by the Applicant, which upon presentation was dishonoured. In these circumstances, the learned Justice of Peace, while allowing the application under Sections 22-A & 22-B, Cr.P.C., has merely directed the concerned police to record the

statement of the complainant (Respondent herein) and to proceed in accordance with Section 154, Cr.P.C., in the event that a cognizable offence is disclosed. Such direction is in consonance with the settled principles of law and does not suffer from any legal infirmity or jurisdictional defect.

10. In the backdrop of the foregoing facts and circumstances, this Court is of the considered view that the Applicant has failed to make out any case warranting interference with the impugned order. Consequently, the instant Criminal Miscellaneous Application stands dismissed, and the impugned order is hereby maintained.

JUDGE