

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Misc. Application No.S-119 of 2025

Applicant : Abbas Ali Buriro through Mr. Muhammad Javed Arain, Advocate.

Proposed accused : Muhammad Farooque (Nemo).

Respondent : The State through Mr. Muhammad Raza, Katohar, Deputy Prosecutor General.

Date of Hearing : 21-09-2026

Date of Order : 02-10-2026

ORDER

TASNEEM SULTANA, J.- Through the instant Criminal Miscellaneous Application under Section 561-A, Cr.P.C., applicant Abbas Ali Buriro has called in question order dated 22.06.2023 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Daharki, in Criminal Miscellaneous Application No.1650 of 2023, whereby his application under Section 22-A(6)(i), Cr.P.C., seeking recording of his statement and registration of an FIR was dismissed.

2. Brief facts are that the applicant approached the learned Ex-Officio Justice of Peace stating that he had advanced an amount of Rs.55,00,000/- to proposed accused Muhammad Farooque Qureshi for purchasing landed property. According to him, towards repayment of the said amount, the proposed accused issued cheque No.25338764 dated 08.08.2022 for Rs.25,00,000/- and cheque No.25338765 dated 08.02.2023 for Rs.30,00,000/-, which, on presentation, were dishonoured. The applicant further alleged that despite repeated demands the amount was not paid and the police did not record his statement, whereafter he approached the learned Ex-Officio Justice of Peace.

3. Learned counsel for the applicant contended; that the allegations made in the application disclosed commission of a cognizable offence; that both cheques and their return memoranda were available before the learned Ex-Officio Justice of Peace; that the report of the DSP Complaint Redressal Centre, Ghotki, also referred to the issuance and dishonour of the cheques; that the

learned Ex-Officio Justice of Peace went beyond the scope of proceedings under Section 22-A(6), Cr.P.C. by examining the applicant's source of income, whether the transaction involved interest/Viyaj, whether he was registered under the Money Lending Act, and the existence of dishonest intention; that these matters required investigation and evidence; and that the impugned order is therefore not sustainable. He prayed that the same be set aside.

4. Conversely, learned Deputy Prosecutor General supported the impugned order and submitted that the matter arose out of a monetary transaction between private parties and that no illegality had been committed by the learned Ex-Officio Justice of Peace warranting interference by this Court.

5. Heard. Record perused.

6. The record reflects that the applicant specifically alleged advancement of Rs.55,00,000/- to the proposed accused and issuance of two cheques towards repayment thereof. Cheque No.25338764 for Rs.25,00,000/- was returned with remarks relating to difference in the drawer's signature and insufficient funds, whereas cheque No.25338765 for Rs.30,00,000/- was returned on account of the account being dormant. The cheques and their return memoranda were part of the material placed before the learned Ex-Officio Justice of Peace.

7. Reports were also obtained from the concerned police authorities. As reflected from the impugned order, the SHO, P.S. Daharki, stated that he was ready to lodge the FIR if the applicant appeared at the police station. The DSP Complaint Redressal Centre, Ghotki, also referred in his report to both cheques and the reasons recorded in the bank memoranda for their dishonour. These reports were also before the learned Ex-Officio Justice of Peace. However, the correctness of the underlying transaction and the effect of such material could not be finally assessed at that stage.

8. The learned Ex-Officio Justice of Peace, however, proceeded to examine whether the applicant had sufficient income to advance such an amount; whether he was a taxpayer; whether he was registered under the Money Lending Act; whether the transaction was properly documented; whether it involved interest/Viyaj; and whether dishonest intention in issuance of the cheques was established. These were disputed matters requiring investigation

and evidence and could not properly be determined while deciding an application under Section 22-A(6), Cr.P.C.

9. In Younas Abbas and others v. Additional Sessions Judge, Chakwal and others (PLD 2016 SC 581), the Honourable Supreme Court held that the functions performed by an Ex-Officio Justice of Peace under Section 22-A(6), Cr.P.C. are quasi-judicial in nature and require due application of mind. The Ex-Officio Justice of Peace is required to examine the material placed before him and pass an appropriate order in accordance with law.

10. The scope of such examination was further explained in Syed Qamber Ali Shah v. Province of Sindh and others (2024 SCMR 1123), wherein the Honourable Supreme Court held that the Ex-Officio Justice of Peace is not required to undertake minute scrutiny of the case or assume the role of an investigating agency or prosecutor. The truth or otherwise of the allegations and the evidentiary worth of the material are matters to be examined during investigation rather than finally determined at the stage of proceedings under Section 22-A, Cr.P.C.

11. In the present case, the applicant had placed before the learned Ex-Officio Justice of Peace his allegation regarding advancement of the amount, issuance of two cheques towards its repayment and their subsequent dishonour, along with the cheques and return memoranda. The matter was therefore required to be examined within the scope of Section 22-A(6), Cr.P.C., without recording findings on disputed aspects of the transaction which properly belonged to the investigative process.

12. It therefore appears that, while deciding the application, the learned Ex-Officio Justice of Peace entered into questions touching the merits of the transaction which were not required to be finally determined at that stage. The matter, therefore, calls for reconsideration within the settled scope of Section 22-A(6), Cr.P.C.

13. In view of the above facts and circumstances, the instant Criminal Miscellaneous Application is **allowed** and the impugned order dated 22.06.2023 passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Daharki, in Criminal Miscellaneous Application No.1650 of 2023 is set aside. The matter is remanded to the learned Sessions Judge, Ghotki, who

shall withdraw the said Criminal Miscellaneous Application from the Court which passed the impugned order and decide the same afresh, in accordance with law, after affording an opportunity of hearing to the parties and keeping in view the observations made herein.

J U D G E

Ahmad