

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**CrI. Revision Application No. 270 of 2022**

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Date	Order with signature of Judge
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Fresh Case.

1. For orders on MA No. 14287 of 2022 (U/A).
2. For orders on office objection and reply of Counsel thereon as at "A".
3. For orders on MA No. 14288 of 2022 (Ex./A).
4. For hearing of main case.
5. For orders on CMA No. 14289 of 2022. (Stay/A)

**07<sup>th</sup> December 2022**

Peer Syed Asadullah Shah Rashidi and Mr. Abdul Qudoos, advocates  
for the applicant

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1. Urgency granted.

Heard learned counsel for the applicant.

Case of the applicant is that he preferred application under Section 540 Cr.P.C. for calling a former Civil Judge and Judicial Magistrate, who was Presiding Officer of the Court of XIIIth J.M Karachi Central, as a court witness. As per the counsel for the applicant, the applicant has been arraigned that he misappropriated the case property recovered in FIR No. 389 of 2013 registered under Section 380/457/34 PPC registered at P.S. Sir Syed. Further, it is agitated that applicant served with show cause notice by the trial Judge to produce the case property, though he submitted his explanation in writing, but that was not considered and thus applicant was involved in FIR No. 51/2017 under section 409 PPC R/w Section 5(2) Act-II 1947, registered at P.S. ACE, Central, Karachi; according to counsel for the applicant that case property was handed over by the applicant to the learned Judge but same was misappropriated by that court not by applicant himself, hence he prayed for allowing the instant revision.

2. Record reflects that material witnesses have been examined before the trial Court. The application moved by the applicant u/s 540 Cr.P.C was declined by learned trial Court on the ground that he has failed to submit evidence that such case property was kept in the *Malkhana*. Learned counsel for the applicant has failed to submit any evidence that property was kept in

*Malkhana* after recovery even receipt of *malakhana* has not been produced. At this juncture, it appears that there is no sufficient evidence to call the concerned trial judge on mere allegation that he misappropriated the said property.

3. Under these circumstances, trial court has rightly dismissed the application under Section 540 Cr.PC moved by the applicant. No illegality or infirmity is pointed out by the learned counsel for the applicant to interfere with the impugned order. Accordingly, this Revision application is disposed of along with listed applications. Needless to mention that applicant would be at liberty to examine the Incharge *Malakhana* as well as any concerned staff of the trial court with regard to proceedings of FIR No. 389/2013 as a DWs, if so advised.

JUDGE

.SAJID