

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Crl. Misc. Application No. 161 of 2020

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Date order with signature of Judge

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For hearing of main case.

**30.11.2020**

Mr. Muhammad Bilal, Rashid, Advocate for applicant.  
Mr. Sagheer Ahmed Abbasi, APG.  
Mr. Sami Majeed, Advocate for complainant/respondent No.2.

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Omar Sial, J: Muhammad Raheel Rafique is a nominated accused in FIR No. 577 of 2019 registered under sections 489-F and 420 P.P.C. at the Ferozabad police station. During trial, he moved an application under section 249-A Cr.P.C. seeking his acquittal which was declined by the learned 17<sup>th</sup> Civil Judge & Judicial Magistrate, Karachi East on 9-3-2020. He has now impugned that order in these proceedings.

2. The background to the case is that Misbahuddin Pirzada lodged the aforementioned FIR on 16-9-2019 in which he narrated that he purchased a plot of land from the applicant and as sale consideration he gave him Rs. 1,925,000. The applicant did not transfer the plot to Pirzada and upon his consistent reminders, the applicant gave him 3 cheques as security/surety. All three cheques bounced when presented at the bank's counters.

3. I have heard the learned counsel for the applicant as well as the learned counsel for the complainant and the learned APG. My observations are as follows.

4. The learned counsel for the applicant has stressed on the fact that the FIR reveals that the said cheques were issued as "security/surety" and thus do not fall within the ambit of section 489-F P.P.C. He therefore seeks quashment of proceedings and an acquittal of the applicant.

5. It is an admitted position that the cheques were issued in connection with the plot of land purchased by Pirzada. For what purpose the cheques were issued and whether that purpose falls within the ambit of "fulfillment of an obligation", as required by section 489-F P.P.C., can only be determined once evidence is led at trial. At the moment only the charge has been framed at trial. It will not be proper to stifle the prosecution at this stage.

6. Above are the reasons for the short order of 3-11-2020 by which the Criminal Misc. Application was dismissed.

JUDGE