

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

CrI. Revision Application No.S- 89 of 2022
(*Muhammad Bachal Qazi v. The State & another*)

Date of hearing	Order With Signature Of Judge.
-----------------	--------------------------------

Hearing of Case

1. For orders on office objections
2. For orders on MA 5139/2022
3. For regular hearing.

Mr. Anwar Ali Lohar, Advocate for applicant.
Mr. Ubedullah Ghoto, Advocate for respondent No.2.
Mr. Aftab Ahmed Shar, Additional P.G for the State.

Date of Hearing & Order: **08-03-2024**

ORDER

MUHAMMAD IQBAL KALHORO J.- By consent, impugned order dated 24.09.2022, passed by learned Additional Session Judge (MCTC), Ubauro is set aside. Since the documents sought to be produced by the complainant, may be prepared by the accused, are official documents having been prepared by him during investigation of the case in the capacity of I.O. Therefore, in terms of Article 91 of the Qanun-e-Shahadat Order, 1984 presumption of genuineness to these official documents is attached and under section 94 CrPC the Court has the power to issue a summon or order the person in whose possession such document/record is, requiring him to attend the Court and produce it. This proposition is supported by unreported orders passed by this Court dated 13.10.2021, in C.P.No.D-3807 of 2021 etc. dated 15.10.2021, in C.P.No.D-2119 of 2011 etc. In latter case, this Court while summarizing the points has noted down in clauses (xi to xiv) as under:

- xi. Presumption of genuineness is attached to a public document, attested or certified copy thereof is relevant and admissible in evidence, unless contrary is proved rebutting such presumption completely.
- xii. There is no requirement of law to examine author or attesting witness to prove existence of a public

document. Therefore there is no obligation upon the prosecution to examine any such person in proof of an official document.

xiii. The document in the investigation is collected/obtained under a seizure memo. Section 94 CrPC is relevant in this respect and, among others, empowers the IO to seize or collect a document required for investigation purpose.

xiv. Whereas, under Article 91 of the Qanun-e-Shahadat Order, the document, purporting to be a record or memorandum of the evidence, can be produced in the court by a witness and it will have a presumption of genuineness attached to it.

2. Hence, the trial Court may proceed to exercise powers under section 94 CrPC and require the SHO concerned to produce these documents, which being official documents, should be considered in accordance with law in terms of Article 91 of the Qanun-e-Shahadat Order.

3. This Crl. Revision Application along with listed application is **disposed of** accordingly in the above terms.

JUDGE

Ahmad