

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Present:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Omar Sial

High Court Appeal No. 107 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGES
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Fresh Case.

1. For order on C.M.A. No.659/2024
2. For order on office objection a/w reply as at "A"
3. For order on C.M.A. No.660/2024
4. For hearing of main case
5. For order on C.M.A. No.661/2024

Dated: 14-03-2024

Mr. Aamir Mansoob Qureshi, Advocate for appellants.
Mr. Ahmed Masood, Advocate for respondent No.1.

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1. Granted.
 2. Deferred.
 3. Granted subject to all just exceptions.
 - 4&5. This appeal has been filed by Muhammad Kashif and Abdul Khaliq (who is the son of Haji Abdul Sattar).
2. According to the learned counsel for the appellants, Muhammad Kashif's brother, Fahad Khaliq (respondent no. 5 in this appeal), was involved in "suspicious activities" and was therefore removed as a director of the family run business. It is apprehended by the appellants that Fahad may have unauthorisedly issued six cheques and there is an apprehension that those cheques might be "misused" by the beneficiaries of those cheques. Suit No, 1790 of 2023 was filed by the appellants. Along with the Suit was an application (CMA No. 13336 of 2023) filed under Order 39 Rules 1 and 2 C.P.C. in which the following prayer was made:

"To pass orders thereby restraining defendants, their officers, employees, attorney's or anyone else acting directly or indirectly from taking any coercive action against the plaintiffs, threatening, blackmailing, involving in false criminal cases on the basis of cheques allegedly issued by the defendant No.5 and/or creating any kind of harassment in any manner by any means fill final disposal of instant suit."

3. The application was dismissed by a learned Single Judge of this Court vide order dated 11.03.2024. The order has been challenged through this appeal.

4. We have heard the learned counsels and perused the record.

5. F.I.R. No. 646 of 2023 has been registered against the appellants and Fahad Khaliq at the Malir City police station on 12.08.2023. This F.I.R. has been registered under sections 489-F, 420, 120, 405 and 34 P.P.C. In essence what has been sought from this Court in its civil appellate jurisdiction is a restraining order from any further criminal case being initiated against the appellants pursuant to the cheques allegedly unlawfully issued by Fahad Khaliq. With much respect, we are unable to agree with the stance taken by the learned counsel for the appellants. In the event the appellants have no concern with the cheques which have been issued, the appropriate forum to seek the requisite relief would be the trial court which is hearing the case arising from the F.I.R. No. 646 of 2023. Needless to say sections 265-K and 249-A Cr.P.C., as the case may be, provide that an accused can be acquitted if the charge is baseless or if there is no possibility of a conviction. It is pertinent to note that the F.I.R. is not restricted to an offence under section 489-F P.P.C. It is well settled now that a law enforcement agency cannot be directed to not investigate an offence reported to it.

6. The appellants claiming in civil proceedings that they are innocent in criminal proceedings and hence a blanket stay be given to them from any further criminal action, in our opinion and in the circumstances of the present case, is misconceived.

7. Appeal is dismissed.

JUDGE

JUDGE