

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Misc. Application No.S-898 of 2023
(Syed Hyder Abbas Shah Vs. The State & others)

| DATE OF HEARING | ORDER WITH SIGNATURE OF JUDGE |
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- 1. For Orders on office objection.
- 2. For Orders on MA No. 7501/2023. (Ex./ A)
- 3. For hearing of main case.

25-03-2024.

Mr. Sheeraz Fazal, advocate for the applicant.
Ms. Shabana Naheed Mughal, Assistant P.G for the State.

- 1. Over ruled.
- 2. Granted subject to all just legal exceptions.
- 3. It is alleged by the applicant that the private respondent issued a cheque in his faovur, it was bounced when was presented before the concerned Bank for encashment. On the basis of such allegation, he by making an application under section 22 A/B Cr.P.C sought for direction against the police to record his FIR; it was issued by learned Sessions Judge/Ex-Officio Justice of Peace, Khairpur vide order dated 01-12-2023, which is impugned by the applicant before this Court by way of instant Crl. Misc. Application u/s 561-A Cr.P.C.
- 2. It is contended by learned counsel for the applicant that the subject cheque was issued from a joint account, as a security, it has been misused by the private respondent and for its cancellation a civil suit is filed which is pending adjudication before the Civil Court having jurisdiction and such aspect of the case has been lost sight of by

learned Ex-Officio Justice of Peace, while passing the impugned order, therefore it is liable to be set aside.

3. None has come forward to advance arguments on behalf of the private respondent; however learned Assistant P.G for the State by supporting the impugned order has sought for dismissal of instant Crl. Misc. Application.

4. Heard arguments and perused the record.

5. Apparently, there is dispute between the parties over sale and purchase of the plot. It is alleged by the applicant that the cheque has been misused by the private respondent malafidely, which was issued as a guarantee and for its cancellation a civil suit is also filed. If for the sake of arguments, it is believed that the offence as alleged by the private respondent has actually taken place and for that his FIR is not being recorded by the police then he has an alternate remedy to exhaust by filing direct complaint of such incident; such remedy if is exhausted besides being alternate would be adequate in the circumstances for the reason the police has hardly to do anything in case like the present one when entire evidence which is likely to be collected by the police on investigation is already lying with the private respondent. In the circumstances the impugned order could not be sustained, it is set aside.

The instant Crl. Misc. Application is disposed of accordingly.

Judge