

## ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Misc. Application No. S-128 of 2024

*(Abdul Rehman Ghoto Vs. The State & others)*

| DATE OF HEARING | ORDER WITH SIGNATURE OF JUDGE |
|-----------------|-------------------------------|
|-----------------|-------------------------------|

1. For Orders on MA No. 1276/2024. (U/A)
2. For Orders on office objections.
3. For Orders on MA No. 1277/2024 (Ex./A)
4. For hearing of main case.
5. For Orders on MA No. 1278/2024 (Stay/A)

**25-03-2024.**

Mr. Mubarak Ali Ghoto advocate for the applicant.

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1. Granted.
2. Over ruled.
3. Granted subject to all just legal exceptions.

4&5. It is alleged by the private respondent that applicant has issued a cheque in his favour dishonestly, it was bounced by the concerned Bank when was presented there for encashment and he then was threatened of dire consequences, when approached the applicant for return of his money. On the basis of such allegation, the private respondent after having a recourse u/s 22 A/B Cr.P.C lodged the FIR with PS A-Section Ghotki, it was recommended by the police to be disposed of under "B" class; such recommendation of the police was not accepted by learned Ist Civil Judge & Judicial Magistrate Ghotki, who took the cognizance of the offence vide his order dated 29-02-2024, which is impugned by the applicant before this Court by way of instant Crl. Misc. Application.

It is contended by learned counsel for the applicant that the recommendation of the police for cancellation of subject FIR under "B"

class was based on honest investigation; therefore, it was not to have been turned down by learned trial Magistrate. By contending so, he sought for setting aside of impugned order.

Heard arguments perused the record.

The subject cheque was dishonored by the concerned Bank when was presented there for encashment, it obviously constitutes a cognizable offence. On the basis of such allegation, the private respondent lodged an FIR after having a recourse u/s 22 A/B Cr.P.C. Whatever is stated by the private respondent in his FIR takes support from ancillary evidence, it has been disbelieved by the police while believing the version of the applicant without lawful justification. In such situation, learned trial Magistrate was right to take cognizance of the offence, outcome of subject FIR on the basis of tentative assessment of the material brought before him by way of impugned order, which is not found illegal to be interfered with by this Court by way of instant Cr. Misc. Application u/s 561-A Cr.P.C, it is dismissed in limine together with listed application directing the applicant to prove his innocence by joining the trial.

**Judge**

Nasim/P.A