

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-628 of 2025

Applicant : Tarique Ahmed son of Muhammad Akram
Through Mr. Muhammad Hanif Channa, Advocate

Respondent No.3 : Muhammad Amin s/o Jalal Khan, Kolachi
Through Mr. Irshad Ali Soomro, Advocate

The State : *Through* Mr. Gulzar Ahmed Malano, Asst. P.G

Date of hearing : 19th January, 2026
Date of order : 29th January, 2026

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant Tarique Ahmed invokes the inherent jurisdiction of this court, calling in question order dated 21.08.2025 passed by the learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Ghotki, in Cr. Misc. Application No.1631 of 2025, wherein the applicant's application filed under Section 22-A(6)(i) Cr.P.C, seeking directions to the Station House Officer to register a FIR and record the applicant's statement in relation to alleged criminal offences was dismissed. The applicant seeks setting aside of that order with a direction to the SHO PS A-Section Ghotki to record the applicant's statement and register an FIR if a cognizable offence is made out.

2. The applicant, is the proprietor of a motorcycle showroom named Shah Jamait Motors situated near the bypass in Ghotki. Respondent No.3, Muhammad Amin, is the applicant's relative and acquaintance. According to the applicant's version, on 08.06.2025 at 10:00 A.M, the respondent No. 3 approached the applicant at his motorcycle showroom and requested a loan of Rs.13,10,000/- (thirteen lac and ten thousand rupees) on a borrowing basis, undertaking to repay the same after one month and offering to issue a cheque in the applicant's name as security. The applicant requested time of three days to arrange funds. On 11.06.2025 at about 11:30 A.M, the applicant, in the presence of two witnesses namely Riaz Ali Shah and Shahal Khan, advanced the sum of Rs.13,10,000/- to the respondent No.3 in the form of Pakistani currency notes

of Rs.1000/- denomination. In return, the respondent No.3 issued a cheque bearing No. 10422289, dated 11.07.2025, drawn on his personal account No.PK62BAHL11280 09500406201 maintained with Bank Al Habib Limited, Ghotki branch, for the amount of Rs.13,10,000/- in the name of Shah Jamait Motors. On the due date, the applicant deposited the cheque in his personal account No.98320110005516 maintained with Meezan Bank, Ghotki branch, for encashment. However, on 14.07.2025, the cheque was dishonored by Meezan Bank with a return memo indicating "*insufficient funds in drawer's account.*" The applicant subsequently contacted the respondent No.3 to inform him of the dishonor and requested payment of the amount. The respondent No.3 initially promised to make payment within one week, but thereafter kept the applicant on false hopes by neither paying the amount nor providing any credible reason for non-payment. On 26.07.2025 at about 5:00 P.M., the applicant, accompanied by the two witnesses, visited the residence of the respondent No. 3 and demanded repayment of the amount. The respondent No. 3 not only refused to pay but allegedly threatened the applicant with murder, declaring that if the applicant came again or continued to demand the amount, he would face dire consequences.

3. The learned counsel for the applicant contended that the impugned order is wholly unsustainable as the applicant's complaint clearly discloses a cognizable offence under Section 489-F PPC involving dishonest issuance of a cheque toward loan repayment, its dishonor due to insufficient funds, and the respondent's refusal to repay, all supported by documentary evidence and eyewitnesses. The counsel emphasized that under Section 154 Cr.P.C, the SHO has a mandatory duty to record and register information of cognizable offences without inquiring into their truth or falsity, as investigation follows registration and not vice versa. The learned counsel argued that the Justice of Peace acted unlawfully by conducting a mini-trial on merits, usurping investigative functions, and depriving the applicant of his fundamental legal right to have a

cognizable offence investigated by police. The direction to avail remedy under Section 200 Cr.P.C was contended to be improper as that section applies only to non-cognizable cases or cases with doubtful nature of offence, not to clearly established cognizable offences. Relying on *Qamber Ali Shah v. Province of Sindh* (2024 SCMR 1123), counsel submitted that where *prima facie* material establishes a cognizable offence, courts must direct FIR registration, particularly when the DSP's report, documentary evidence of cheque dishonor, and eyewitness accounts all support the applicant's version.

4. Mr. Soomro, the learned counsel for respondent No.3, has supported the impugned order and filed written objections before this Court. The learned counsel submitted that the impugned order passed by the learned Justice of Peace is well-reasoned and rightly dismissed the application filed by the applicant. He submitted that the respondent No.3 had filed objections before the trial court, which the applicant has failed to annex with the present application, thereby concealing the real facts before this Court.

5. The learned counsel for respondent No.3 argued that the matter is civil in nature and the applicant is improperly converting a civil dispute into criminal litigation, contending that the transaction was merely a personal lending arrangement between relatives connected to the purchase of a motorcycle by the respondent's son, wherein an unauthorized blank cheque was taken by the applicant's partner Babar Ali without knowledge or consent and fraudulently filled up. The counsel submitted that the respondent No.3 demonstrated good faith by immediately approaching Bank Al Habib Limited's Operation Manager on 15.07.2025 to stop payment, thereby negating any dishonest intention, and that it is an established practice in Ghotki district for motorcycle showroom owners to routinely obtain blank cheques from customers and fraudulently fill them up for collecting illegal interest or blackmailing innocent persons. The counsel contended that the applicant has managed a false and fabricated story, including manufacturing an agreement

between the respondent's son and Babar Ali, and that it is highly astonishing that the applicant lent such a large amount of Rs.13,10,000/- for only one month without any justification or knowledge of the respondent's profession or business capacity. The counsel argued that the respondent No.3, being an aged and sick person, would suffer irreparable loss if subjected to criminal prosecution based on such frivolous allegations orchestrated by a dishonest applicant.

6. The learned Assistant Prosecutor General, Mr. Gulzar Ahmed Malano, adopted the position of the State. He submitted that before this Court can interfere with the order passed by the learned Justice of Peace, it must be established that the order is patently perverse or based on no legal principles whatsoever. He submitted that Section 22-A(6)(i) Cr.P.C vests discretion in the Justice of Peace to issue "appropriate directions," and that the Justice of Peace has exercised this discretion reasonably on the basis of the material placed before him. He submitted that the case presents several peculiar circumstances which warrant the rejection of the application, including the unusually large sum of money allegedly lent for only one month, the contradictory accounts of the parties regarding how the cheque came to be issued, the allegation of fraudulent filling up of the cheque without the respondent No.3's knowledge, and the commercial business practice of showroom owners obtaining blank cheques for extortion purposes. The Assistant Prosecutor General contended that these matters require deeper investigation and that at the stage of FIR registration, the Justice of Peace was right to refuse to direct the police to register the FIR when the background facts were contested and unclear.

7. Heard the parties and examined the record. The primary question is whether the applicant's allegations *prima facie* constitute a cognizable offence under Section 489-F PPC, which requires: (1) issuance of a cheque, (2) toward loan repayment or obligation fulfillment, (3) dishonor on presentation, and (4) dishonest intention. All ingredients are *prima facie* satisfied. The applicant

alleges the respondent No. 3 borrowed Rs.13,10,000/- on 11.06.2025 and issued cheque No. 10422289 dated 11.07.2025, which dishonored on 14.07.2025 due to insufficient funds. The respondent initially promised repayment but subsequently refused and threatened the applicant. Dishonor due to "insufficient funds" raises a strong presumption of dishonest intention at issuance.

8. The second question is whether the Justice of Peace was justified in refusing FIR registration when a cognizable offence was *prima facie* made out. Under Section 154 Cr.P.C., information relating to cognizable offences must be reduced to writing without inquiry into truth or falsity. The police have no authority to inquire before registration; investigation follows registration, and truth determination is a function of investigation and trial. In *Muhammad Bashir v. SHO PS Okara Cantt* (PLD 2007 SC 539), the Supreme Court held that a Justice of Peace must examine whether information relates to a cognizable offence and, if so, direct FIR registration. The jurisdiction is limited to determining whether a cognizable offence is *prima facie* disclosed, not conducting truth inquiries or evaluating witness credibility.

9. The impugned order violates these principles by: (1) evaluating commercial reasonableness of lending Rs. 13,10,000/- for one month, (2) assessing credibility of the respondent's explanation about unauthorized blank cheque taking, (3) considering general business practices of showroom owners as basis for inferring fraud, (4) accepting objections without substantive evidence, and (5) relying on disputed facts resolvable only through post-registration investigation. These actions impermissibly exceed the Justice of Peace's limited jurisdiction. A Justice of Peace cannot adjudicate disputed facts, weigh conflicting versions, or take judicial notice of general commercial practices to infer fraud contrary to *prima facie* allegations. The DSP report, which favored the applicant and recommended prosecution, is highly significant. The DSP stated "proposed accused may be prosecuted under proper section of the law," representing the investigating agency's opinion that a *prima*

facie case exists. The Justice of Peace dismissed the application without properly considering this favorable police recommendation, constituting failure to apply judicial mind. The respondent No.3's explanation that his son took a blank cheque without knowledge and the applicant's partner fraudulently filled it does not negate the Section 489-F PPC offence. The respondent admittedly issued the blank cheque, making him liable for dishonor if insufficient funds existed. The claim of writing to the bank on 15.07.2025 (post-dishonor) does not erase the offence, as it was complete upon dishonor. These are disputed factual matters requiring investigation, not judicial speculation at FIR registration stage.

10. The Justice of Peace was not justified in directing the applicant to avail remedy under Section 200 Cr.P.C. While this provides alternate remedy by filing direct complaints before Magistrates, it does not negate the right to police investigation through FIR for cognizable offences. Section 200 Cr.P.C. applies to non-cognizable cases or cases with genuine doubt about offence nature. Since Section 489-F PPC is cognizable and non-bailable, the applicant has statutory right to police investigation, which cannot be denied by directing Section 200 Cr.P.C remedy. The order violates natural justice principles by making sweeping generalizations about showroom owners' business practices, accepting unsubstantiated objections, refusing to recognize the DSP's favorable report, and providing terse reasoning without explaining how "peculiar circumstances" negated Section 489-F PPC applicability.

11. The impugned order dated 21.08.2025 is patently perverse, based on no legal principle, and constitutes failure to exercise jurisdiction in accordance with law, violating fundamental principles governing FIR registration and the limited jurisdiction under Section 22-A(6)(i) Cr.P.C. The applicant has made out a clear case for interference. The allegations *prima facie* constitute cognizable offence under Section 489-F PPC, supported by the DSP's report and documentary evidence (cheque and bank return memo). The

respondent's defense involves disputed factual matters not adjudicable at FIR registration stage. The Justice of Peace had no authority to refuse FIR registration based on personal assessment of parties' credibility or transaction's commercial reasonableness.

12. In view of the foregoing discussion, the instant application is allowed and the impugned order dated 21.08.2025 passed by the learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Ghotki, in Criminal Miscellaneous Application No.1631 of 2025, is hereby set aside. This Court directs the Station House Officer, Police Station "A" Section, Ghotki, to record the statement of the applicant Tarique Ahmed under Section 154 Cr.P.C. in relation to the offences alleged by him. It is clarified that the registration of the FIR and the commencement of investigation do not amount to a determination of guilt. The respondent No.3 shall have full opportunity to establish his defense during the course of investigation and trial, including any defense relating to the manner in which the cheque came to be filled up or the assertion that he made arrangements with the bank to honor the cheque or that the bank was at fault in not honoring the cheque. The burden of establishing such defense shall rest on the respondent No.3 in accordance with Section 489-F PPC. The order is to be implemented within a period of seven days from the date of receipt hereof.

J U D G E