

## ‘IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No. 56 of 2021

Appellant/Complainant : Agha Imtiaz Ali Khan through Sardar Sher Afzal, Advocate.

Respondents 1, 2 & 3 : Nemo.

Respondent No.4 : Present in person.

Respondent No.5 : The State through Mr. Qamaruddin Nohri, DPG a/w I.O. Inspector Ali Murad Dahiri of P.S. Sukhan, Malir, Karachi.

Date of hearing : 18.05.2026.

Date of judgment : 18.05.2026.

### J U D G M E N T

**TASNEEM SULTANA – J:-** Through this Criminal Revision Application under section 439-A Cr.P.C., the applicant has called in question the legality and propriety of the order dated 22.02.2021 passed by learned Special Judge Anti-Corruption (Provincial), Karachi in Criminal Complaint No.04 of 2021, whereby the direct complaint filed by the applicant under sections 395, 166, 34 P.P.C., read with section 5 of the Prevention of Corruption Act, 1947, was dismissed under section 203 Cr.P.C.

2. The brief facts leading to filing of the instant revision application are that the applicant/complainant claimed to be carrying on family business of cattle farming at Karachi and alleged that due to political rivalry respondent No.1 managed registration of FIR No.275 of 2020 at Police Station Bin Qasim through respondent No.3 while respondent No.2 was assigned investigation of the matter. It was further alleged that during course of investigation, respondents Nos.2 to 4, in collusion with each other, raided the cattle farm of the complainant and removed thirteen buffalos, cash amounting to Rs.100,000/- and one wrist watch belonging to servant of complainant namely Sheroz Ahmed, whereas only seven buffalos were shown as case property in the relevant criminal case. The complainant further alleged misuse of official authority, illegal exercise of police powers and mala fide conduct on the part of official respondents. It appears that based on such allegations, the applicant instituted direct complaint before learned Special Judge Anti-Corruption (Provincial), Karachi.

3. Learned counsel for the applicant contended that the impugned order is contrary to law and facts of the case; that the learned trial Court failed to appreciate

that the complaint as well as statement recorded under section 200 Cr.P.C. disclosed sufficient grounds for proceeding further in the matter; that the Sindh Enquiries and Anti-Corruption Rules, 1993 merely regulate the procedural mechanism of Anti-Corruption Establishment and do not create any absolute bar upon exercise of complaint jurisdiction by a competent criminal Court; that the learned trial Court instead of dismissing the complaint under section 203 Cr.P.C. ought to have adopted the course contemplated under section 202 Cr.P.C. for ascertaining truth or falsehood of allegations; and that the impugned order therefore suffers from legal infirmity and material misdirection in law.

4. Conversely, learned D.P.G. submitted that Rules 8 and 11(2) of the Sindh Enquiries and Anti-Corruption Rules, 1993 prescribe a special mechanism regarding inquiry and registration of cases against public servants through Anti-Corruption Establishment; that allegations against public servants ordinarily require prior verification and scrutiny through the prescribed procedure; however, the learned trial Court could have adopted the procedure contemplated under section 202 Cr.P.C. instead of dismissing the complaint outright under section 203 Cr.P.C.; and that before issuance of any process against the respondents, the allegations levelled in the complaint would still require strict scrutiny in accordance with law.

5. I have heard learned counsel for the applicant and learned D.P.G. for the State and have gone through the material available on record with their assistance.

6. A perusal of the impugned order reflects that the learned trial Court dismissed the complaint primarily on the ground that the complainant had directly approached the Court without first availing the forum of Anti-Corruption Establishment and that, in view of Rules 8 and 11(2) of the Sindh Enquiries and Anti-Corruption Rules, 1993, prior inquiry and approval through Anti-Corruption Establishment was necessary before initiation of proceedings against public servants.

7. The approach so adopted by the learned trial Court was based upon an erroneous interpretation of law inasmuch as the procedural framework provided under Rules 8 and 11(2) of the Sindh Enquiries and Anti-Corruption Rules, 1993 merely regulates the mode of inquiry and registration of anti-corruption cases against public servants and does not completely oust or extinguish the direct complaint jurisdiction otherwise exercisable by a competent criminal Court under sections 200 and 202 Cr.P.C. It is by now well settled that unless jurisdiction of a criminal Court is expressly barred by law, such exclusion cannot readily be inferred merely from existence of a special procedural mechanism under a special statute or Rules framed thereunder. The Prevention of Corruption law and the said Rules no doubt provide a mechanism regarding preliminary inquiry, approval and registration of cases through Anti-Corruption Establishment; however, such provisions cannot be construed to

render a competent criminal Court powerless to entertain and examine a direct complaint otherwise maintainable under the Code of Criminal Procedure.

8. It may be observed that section 8 of the Sindh Enquiries and Anti-Corruption Act, 1991 assumes significance, which specifically provides that the provisions of the Act shall be "in addition to and not in derogation of any other law for the time being in force." The cumulative effect of the said provision is that the special procedure prescribed under the anti-corruption law supplements, rather than supplants, the ordinary direct complaint jurisdiction exercisable by criminal Courts under the Code of Criminal Procedure. Therefore, while dealing with a direct complaint involving allegations against public servants, the learned trial Court was required to undertake judicial scrutiny in accordance with sections 200 and 202 Cr.P.C. for determining existence or otherwise of sufficient grounds for proceeding further in the matter.

9. Reliance in this regard may safely be placed upon the case of **Noor Muhammad v. The State (PLD 2007 Supreme Court 9)**, wherein the Hon'ble Supreme Court explained the scope of sections 200 to 204 Cr.P.C. and held that at the preliminary stage the Court is merely required to ascertain existence or non-existence of sufficient grounds for proceeding and not to undertake deeper appraisal of evidence as would be undertaken during trial. It was further observed that proceedings under sections 202 and 203 Cr.P.C. are intended for ascertaining truth or falsehood of allegations through preliminary judicial scrutiny and not for conducting a full-dress trial at the threshold stage.

10. Likewise, in the case of **Abdul Hafeez and others v. District Co-ordination Officer, Chotki at Mirpur Mathelo and others (2017 P.Cr.L.J. 1067)**, the learned Sindh High Court, Sukkur Bench, while examining the scope of direct complaints under Prevention of Corruption law, observed that although the special law and the Rules framed thereunder provide a mechanism regarding inquiry and registration of anti-corruption cases against public servants, yet the Anti-Corruption Court, while entertaining a direct complaint, is still required to follow the procedure contemplated under sections 200 and 202 Cr.P.C. before passing any judicial order. It was further observed that judicial process cannot be bypassed merely on the basis of administrative procedure prescribed under the special law and the Rules framed thereunder.

11. The principle emerging from the aforesaid authorities clearly demonstrates that even where prior verification or inquiry may be considered necessary, the proper course available to the Court is to adopt the procedure contemplated under section 202 Cr.P.C. for purposes of preliminary inquiry or verification of allegations instead of dismissing the complaint outright solely on the technical premise that the complainant had not first approached the Anti-Corruption Establishment. A Special Judge, being otherwise competent to take cognizance upon a complaint disclosing commission of

a scheduled offence, was required to undertake judicial scrutiny in accordance with law before passing an order under section 203 Cr.P.C.

12. The record reflects that the complainant had levelled allegations against the respondents regarding misuse of authority and unlawful exercise of official powers and had also produced supporting material, including copies of complaints moved before higher police authorities and other related documents, in support thereof. The statement of the complainant under section 200 Cr.P.C. had also been recorded by the learned trial Court. Whether such allegations are ultimately proved or otherwise is a matter requiring evidence and adjudication in accordance with law; however, at the preliminary stage, the learned trial Court was only required to examine whether the material brought on record necessitated further inquiry or judicial scrutiny in accordance with sections 200 and 202 Cr.P.C. before passing an order under section 203 Cr.P.C.

13. The learned trial Court appears to have proceeded on the premise that absence of prior recourse to the Anti-Corruption Establishment rendered the complaint itself not maintainable and, on such basis, dismissed the complaint under section 203 Cr.P.C. without adopting the procedure contemplated under sections 200 and 202 Cr.P.C. for purposes of judicial scrutiny or preliminary inquiry, which approach was not in consonance with the settled principles governing direct complaint jurisdiction under the Code of Criminal Procedure.

14. In view of the discussion made hereinabove, this Court is satisfied that the learned trial Court misdirected itself in law while treating the procedural mechanism provided under the Sindh Enquiries and Anti-Corruption Rules, 1993 as an absolute bar upon exercise of direct complaint jurisdiction under the Code of Criminal Procedure. The impugned order dated 22.02.2021, therefore, cannot be sustained in the eyes of law. Accordingly, the instant Criminal Revision Application is allowed, the impugned order is set aside, and the matter is remanded to the learned trial Court to proceed afresh in accordance with law and, after adopting the procedure contemplated under sections 200 and 202 Cr.P.C., pass an appropriate speaking order on its own merits. Any observations made hereinabove are tentative in nature and shall not sway the learned trial Court while independently examining the matter in accordance with law. The revision application stands disposed of in the above terms.

JUDGE