IN THE HIGH COURT OF SINDH BENCH AT SUKKUR.

Criminal Miscellaneous No.S-110 of 2025.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE

Applicant: Khadim Hussain S/O Lal Bux Lashari
Through Mr.Nisar Ahmed Kanasro Advocate

The State: **Through Mr. Khalil Ahmed Maitlo D.PG**.

Date of hearing & order: **17.11.2026**.

Suresh Kumar J:- This Criminal Misc. Application has been preferred on behalf of applicant/complainant against the impugned order dated 06.2.20225 passed by learned Civil Judge & Judicial Magistrate-I, Khairpur on the final report submitted by I/O for cancellation of FIR No.311/2024 against the respondent/accused Hyder Abbas Shah for offence U/S 489-F PPC registered at PS B-Section Khairpur.

2. The concise facts leading to the instant application, as depicted in the FIR, are as follows: On 24.08.2026, the complainant, Khadim Hussain Lashari, lodged an FIR stating that, due to a dispute regarding a plot, the respondent/accused had issued cheque No. 70909408, dated 15.03.2024, amounting to Rs. 600,000, which was subsequently dishonored by the bank. Consequently, the applicant/complainant lodged the FIR. After the registration of the FIR, an investigation was conducted, and the Investigating Officer submitted a summary report for the disposal of the FIR under ‘C’ class, which was accepted by the Magistrate, resulting in the case being disposed of. Therefore, the applicant/complainant has impugned the said order before this Court.

3. I have heard learned counsel for applicant/complainant, and learned D.P.G Sindh and perused the material available on record.

4. The learned counsel for the applicant/complainant has contended that the cheque issued by the respondent/accused was found dishonored, and the memorandum issued by the bank is available on record. However, the

Investigating Officer, on the basis of defense witnesses, submitted a summary report for the disposal of the FIR under 'C' class. He also contended that the Magistrate is under a mandatory and legal obligation to independently satisfy himself regarding the material available before him, and that the learned Magistrate has not applied his judicial mind and accepted the summary, despite the sufficient material available that prima facie connects the respondent/accused with the commission of the offense.

5. Learned DPG has not supported the impugned order and has further contented that material available on record which prima facie connect the accused for the offence u/s 489-F PPC, as the documentary evidence in shape of cheque and memo are available on record.

6. Before parting with the merits of the case, it is appropriate to discuss the role of the Investigating Officer (I/O) in the investigation. The role of the Investigating Officer is crucial in uncovering the truth without being influenced by either party. In this regard, reliance is placed upon the case of Sughra Bibi v. The State (PLD 2018 SC 595). In the present matter, the I/O submitted a summary based on the defense witnesses without adequately considering the evidence produced by the complainant in the form of the cheque and memorandum, as well as the oral statements of the complainant and witnesses. In the unreported case of Ghulam Nabi Jatoi and another v. The State and others (Crl. Misc. Application S-583/2023), this Court has observed that the I/O cannot usurp the judicial functions by disposing of the case based on the defense version but must submit the report under Section 173 Cr.P.C., leaving the adjudication of defense versions to the trial Court. In the case of Imdad Ali Junejo v. Manzoor Ali Khan and others (2022 YLR N 130), this Court held that while dealing with the summary report under Section 173 Cr.P.C., the Magistrate is under an obligation to independently satisfy himself regarding the material available on record. There is no cavil regarding the proposition of law that when a report under Section 173 Cr.P.C. is submitted before the Magistrate, he is required either to agree or disagree and is bound

to apply his judicial mind to assess whether the material collected through the Investigating Officer is sufficient for trial or not. In the present case, I find that sufficient material is available on record for trial, as the cheque was issued by the respondent No. 1, which was dishonored by the bank with a memorandum, and this version is also supported by the complainant and witnesses. After reviewing the material available on record and perusing the cheque and memorandum, I find that while passing the impugned order, the learned Magistrate did not apply his judicial mind in considering the material available on record to reach a just conclusion. Furthermore, he did not discuss the material collected by the I/O concerning the cheque, memorandum, and witnesses produced by the complainant.

7. For the foregoing reasons and guidance taken from the case law, the instant Criminal Miscellaneous Application is allowed, and the impugned order dated 06.02.2025, passed by the learned Civil Judge & Judicial Magistrate-I, Khairpur, is set-aside as being unsustainable under the law. The learned Magistrate is directed to pass a speaking order on the final report u/s 173 Cr.P.C submitted by the Investigating Officer, after considering the entire material collected by the I/O, within a period of 15 days from the receipt of this order, under intimation to the Additional Registrar of this Court.

J U D G E

Hizbullah/PA