IN THE HIGH COURT OF SINDH BENCH AT SUKKUR.
Criminal Revision. Application No.S-83 of 2026.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE

Applicant: His Highness Mir Ali Murad Khan Talpur
Through his Attorney
Shafquat Ali S/O Shahbaz Ali Hajano
Through Mr.Saeed Ahmed Bhatt, Advocate

The State: **Through Mr.Shafi Muhammad Mahar D.. P.G.**

Accused: 1. Fayaz S/o Muharram Ali Shaiklh
2. Shaman Ali S/O Muharram Ali Shaikh
3. Rahim Bux S/o Muharram Ali Shaikh
4. Zulfiquar Ali S/O Muharram Ali Shaikh
5. Fayaz S/O Yousif Punjabi
6.Asadullah S/O khan Muhammad Soomro
All R/O Saheedabad Muhalla Khairpur.
Through Mr. Safdar Ali Bhatti Advocate.

Date of hearing & order: 25.09.2026.

Suresh Kumar J:- Through this Criminal Revision .Application under Section 435 ,439-A Cr.P.C, the applicant has impugned the order dated 22.08.2026 passed by learned Additional Session Judge- III Khairpur in Crl. Complaint No.16 of 2023 (His highness Mir Ali Murad Khan Talpur v. Fayaz Shaikh and others) , whereby learned trial court has dismissed the application under section 540 Cr.P.C for calling the Assistant Commissioner, Khairpur, Mukhtiarkar Taluka Khairpur and Survey Superintendent Sukkur @ Khairpur .

2. The facts leading to this Criminal Revision application are as follows: The complainant filed a Criminal Complaint under Sections 3 and 4 of the Illegal Dispossession Act, 2005, stating that he is the lawful owner of agricultural land situated in Deh Khairpur, as evidenced by mutation entry No. 1947 dated 19.01.2019. Three years prior, the accused, in collusion with each other, occupied Survey Nos. 1068 (1-2) and 1071 (1-2) located in Deh Khairpur, where they constructed houses without lawful authority. On 19.02.2021, the attorney of the complainant submitted an application to the

Deputy Commissioner Khairpur regarding the illegal occupation of the aforementioned survey numbers, which was forwarded to the Assistant Commissioner Khairpur for legal action. The Assistant Commissioner submitted a report to the Deputy Commissioner Khairpur on 21.06.2021, indicating that several houses of the accused were constructed over an area of 7500 sq. ft., along with a mosque and a hujra covering 1300 sq. ft. The attorney of the complainant was directed to seek proper legal remedy for regaining possession through a competent court. Consequently, the complainant filed this complaint before the Sessions Judge, Khairpur, under Sections 3 and 4 of the Illegal Dispossession Act, 2005, which was later transferred to the Court of the learned Additional Sessions Judge-III, Khairpur.During the pendency of the case, the complainant filed an application under Section 540 Cr.P.C. dated 08.05.2024 before the trial court for the examination of the Assistant Commissioner Khairpur, Mukhtiarkar Taluka Khairpur, and the Survey Superintendent Sukkur @ Khairpur. This application was allowed by order dated 20.09.2024, with a verbal direction for the learned counsel to first examine his private witnesses. Subsequently, the attorney of the complainant and other private witnesses were examined. On 24.09.2025, the learned counsel closed the evidence for the private witnesses and later requested the trial court to summon the aforementioned official witnesses under Section 540 Cr.P.C., which had already been permitted by the trial court on 20.09.2024.It is further alleged that the predecessor presiding officer of the trial court was transferred, and the new presiding officer observed that since the complainant’s evidence side had already been closed, the earlier order dated 20.09.2024 had become infructuous. The presiding officer directed the learned counsel to file a fresh application under Section 540 Cr.P.C., which was subsequently filed, requesting the examination of the same witnesses. After hearing the parties, the learned trial court passed the impugned order dated 22.08.2026, dismissing the application under Section 540 Cr.P.C. for reopening the

complainant's case, as well as the earlier application dated 08.05.2024. Therefore, the complainant has assailed the impugned order.

3. I have heard learned counsel appearing on behalf of complainant, learned DPG, and learned counsel for respondent No.1 as well as respondent No.1 in person and remaining respondents are called absent though they were served.

4. Learned counsel appearing on behalf of complainant has contended that impugned order passed by learned trial Court is illegal, improper and contrary to law. He has also contended that trial Court can call any witness under section 540 Cr.P.C at any stage of the case. He has also contended that evidence of Assistant Commissioner, Khairpur, Mukhtiarkar Taluka Khairpur and Survey Superintendent Sukkur @ Khairpur is necessary for just decision of the case as the relevant documents were issued by them and contents are to be proved through said witnesses, therefore, impugned order may be set aside.

5. Learned counsel for Respondent No.6 has strongly opposed the calling of above witnesses as the documents issued by them, have already been produced by complainant in his deposition. He has further contended that impugned order passed by learned trial Court is well reasoned and in accordance with law, therefore, Criminal Revision may be dismissed.

6. Learned DPG has not supported the impugned order and states that any witness can be called any stage if his evidence is necessary. He has also contended that all proposed witnesses are necessary witnesses, therefore, impugned order may be set aside.

7. Respondent No.1 has supported the impugned order.

8. Having given due consideration to the arguments advanced by learned counsel for the applicant, the learned Deputy Prosecutor General, as well as the complainant, and having perused the relevant material, it is

revealed from the record that an application under Section 540 Cr.P.C. filed before the trial court was dismissed. In this application, the applicant sought the examination of the Assistant Commissioner, Khairpur, Mukhtiarkar Taluka Khairpur, and the Survey Superintendent Sukkur @ Khairpur, as they allegedly issued certain documents that are to be proved through evidence in the trial.Learned counsel for Respondent No. 6 has not denied the issuance of documents by the Assistant Commissioner, Khairpur, Mukhtiarkar Taluka Khairpur, and the Survey Superintendent Sukkur @ Khairpur. This indicates that the documents issued by the aforementioned witnesses have already been brought on record by the complainant. Counsel for the complainant has contended that the veracity of these documents is to be proved through the above witnesses. Therefore, it is necessary to examine these witnesses for a just decision of the case. It is well-settled law that Section 540 Cr.P.C. confers the authority to summon witnesses who are to be examined for a just decision of the case at any stage during the course of an inquiry or other proceedings. In this regard, reliance is placed upon the case of Mehar v. The State (1991 PLD SC 430). The statutory provision under Section 540 Cr.P.C. contains two parts: the first part is discretionary, whereas the second part is mandatory, which can be exercised for calling witnesses as necessary for a just decision of the case. In the case of **Nawabzada Shahzain Bugti vs. State (PLD 2013 SC 160),** it was held as follows:

> "---S.540---Power of Court to summon material witnesses---Scope—Section 540 Cr.P.C gave wide powers to the Court to examine any witness as a court witness at any stage of the case and in certain cases imposed a duty on the Court to summon witnesses who could not otherwise be brought before the court---Where court found that investigation was defective, it could not sit idle and had to exercise all enabling provision under the law including S.540 Cr.P.C to discern the truth---For purpose ofS.540 Cr.P.C the court even without any formal application form prospection or accuse, could summon any persons as witness or examine any person in attendance as a witness or recall and re-examine any persons already examined."

9. In the case of Nizamuddin alias Nizam v. State (2016 P.Cr.L.J 667)this Court has held that trial Court can summon the material witnesses

which are essential for just decision of the case exercising the powers under section 540 Cr.P.C who are essential for just decision of the case .In the present all the three witnesses mentioned above are material witness and their examination is necessary for just decision of the case as they have issued some documents which have already been brought on record.

10. For the reasons stated above and the guidance taken from the cited case law, I am of the considered view that the impugned order dated 22.08.2026, passed by the learned trial court, is not sustainable under the law; therefore, the same is set aside. Consequently, this revision application is allowed, and the witnesses, namely the Assistant Commissioner, Khairpur, Mukhtiarkar Taluka Khairpur, and the Survey Superintendent Sukkur @ Khairpur, shall be called for examination and production of the relevant documents. This Criminal Revision Application is disposed of accordingly.

J U D G E

Hizbullah.