IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Cr. Revision Application No.S-111 of 2024

Applicant	**:**	Mst. Maria Izhar-ul-Haq w/o Izhar-ul-Haq through Mr. Mashooque Ali Mahar, advocate.
Respondent No.1	**:**	Haseeb Ahmed s/o Iqbal Ahmed through Mr. Irshad Ali Qazi, advocate.
Respondent No.2	**:**	The State through Mr. Irfan Ali Talpur, Deputy Prosecutor General.
Date of hearing	**:**	**13.08.2025**
Date of judgment	**:**	**13.08.2025**

JUDGMENT

TASNEEM SULTANA, J.- Through this revision application, the applicant has challenged the order dated 18.12.2023 passed by the learned Judicial Magistrate-VIII, Hyderabad, whereby cognizance has been taken under Section 489-F PPC on a direct complaint filed by the respondent No.1 and bailable warrants were issued in the sum of Rs. 50,000/-.

2. The facts, briefly stated, are that the respondent No.1/complainant Haseeb Ahmed along with his wife Mst. Tanzeela had worked as Sales Executives at Al-Khair Agency, later known as Hyderabad Honda, owned by the applicant's husband. According to the complainant, besides salary, they were entitled to commission on sales, which was withheld by the owner despite repeated demands. It is further alleged that on the occasion of the complainant's Valima ceremony dated 24.10.2022, the applicant's husband, with her knowledge and consent, handed over a cheque No. 81843473 for Rs. 7,000,000/- drawn on UBL Qasimabad Branch, in the name of the applicant. The assurance was that the cheque would be honoured after two months. When presented on 26.12.2022 at MCB Gari Khata Branch, Hyderabad, the cheque was returned dishonoured with remarks "Dormant Account." The complainant/respondent No.1 then lodged FIR No.113/2022 under Sections 489-F, 420, and 34 PPC at P.S Fort, Hyderabad. However, after investigation, the police submitted a "C-Class" report which was accepted by the Magistrate. The complainant's challenge before this Court was dismissed on 17.11.2023 with liberty to file a direct complaint. Availing such liberty, the complainant filed a direct complaint. His statement under Section 200 Cr.P.C. and that of his wife under Section 202 Cr.P.C. were recorded, and upon consideration of the material, the learned Magistrate took cognizance under Section 489-F PPC.

3. Learned counsel for the applicant contended that the impugned order is illegal, as the matter had already been disposed of through a "C-Class" cancellation; that the cheque was drawn on a dormant account, hence incapable of creating liability; that the FSL report noted the signatures to be "disguised"; and that no documentary proof of commission entitlement exists; that the trial Court acted mechanically without application of mind.

4. Conversely, learned counsel for the respondent supported the impugned order. He contended that dishonour of cheque itself constitutes prima facie evidence under Section 489-F PPC; that acceptance of a cancellation report does not bar a direct complaint; that the forensic report links the handwriting of the cheque to the applicant; that all such disputed questions are to be resolved during trial, not at the revisional stage; that the trial Court rightly exercised its jurisdiction in taking cognizance.

5. I have given anxious consideration to the submissions advanced by learned counsel for both sides and carefully examined the record available.

6. Before adverting to the merits, it is necessary to remind oneself of the settled scope of revisional jurisdiction conferred under Sections 435 and 439 of the Code of Criminal Procedure. Such jurisdiction is supervisory and corrective in nature. It does not empower this Court to undertake a roving inquiry into facts, nor to substitute its own appreciation of evidence for that of the trial Court. The guiding test is whether the impugned order suffers from patent illegality, material irregularity, or jurisdictional defect so grave that interference becomes inevitable. Unless such infirmity is demonstrated, the revisional Court must refrain from interdicting proceedings at a nascent stage.

7. Turning to the ingredients of Section 489-F PPC, the provision criminalises the dishonest issuance of a cheque towards repayment of a loan or fulfillment of an obligation which, upon presentation, is dishonoured. Three elements are therefore essential: (i) the drawing of a cheque by the accused; (ii) its issuance in discharge of an obligation; and (iii) its dishonour upon presentation. It is a cardinal rule that at the stage of cognizance, the Court is not to require conclusive proof of these elements but only to see whether the complaint, statements, and material disclose a prima facie case warranting trial. In the case at hand, the complainant has consistently alleged that a cheque for Rs. 7,000,000/- was issued in his favour through the applicant, and that the same was dishonoured upon presentation. This allegation, coupled with the sworn statements under Sections 200 and 202 Cr.P.C., satisfies the statutory threshold. The truth or falsity of the obligation claimed is a matter of evidence and trial, not of revisional determination.

8. The argument advanced on behalf of the applicant, that the cheque was drawn on a dormant account, is not determinative at this stage. The legislature, in drafting Section 489-F PPC, has used expansive terminology by criminalising dishonour of cheque "for any reason whatsoever." This deliberate legislative choice signifies that dishonour, irrespective of whether caused by insufficiency of funds, closure of account, or dormancy, attracts penal consequences provided the cheque was issued towards repayment of an obligation. It would be premature, therefore, to hold at this preliminary stage that dormancy absolves the accused of liability. Whether the issuance was accompanied by dishonest intent and whether a lawful obligation existed are factual inquiries that require evidence. This Court cannot, under the guise of revisional jurisdiction, short-circuit the process by declaring such matters in favour of the applicant without a full trial.

9. The reliance placed by the applicant on the FSL report also does not aid her case at this juncture. The report, while observing variation in the signature, clearly records that the handwriting appearing on the cheque tallies with that of the applicant. The observation of a "disguised" signature is, by its very nature, a matter requiring recording of evidence and appreciation of the overall evidence. Whether the disguise was deliberately adopted by the applicant herself, or whether it points to tampering, are questions of fact which this Court cannot determine in revisional proceedings. It is trite that expert opinion is not conclusive, it must be tested at trial alongside other evidence. Reliance is placed on case of *Mst. Saadad Sultan v. Muhammad Zahoor Khan, 2006 SCMR 193; Yaqoob Shah v. State, PLD 1976 SC 53;* and *Qazi Abdul Ali v. Khwaja Aftab Ahmed, 2015 SCMR 284)* that handwriting-expert evidence is a "weak" type of evidence and cannot, by itself at a preliminary stage, dictate outcome.

10. The contention that the earlier acceptance of a "C-Class" cancellation bars the direct complaint is also untenable. It is well established that the opinion of the police is not binding upon the Courts. A cancellation report is merely the Investigating Officer's assessment, which does not foreclose judicial recourse by the aggrieved complainant. Indeed, in *Mst. Sughran Bibi v. The State (PLD 2018 SC 595),* the Hon'ble Supreme Court unequivocally held that the complainant retains the right to set the criminal law in motion through a direct complaint notwithstanding acceptance of cancellation by a Magistrate. The order of this Court dated 17.11.2023, while dismissing the complainant's challenge to the "C-Class" report, expressly preserved his liberty to adopt such a course. To now deny that right would amount to nullifying the very liberty granted and would deprive the complainant of his lawful remedy.

11. It is therefore clear that at the stage of cognizance, it is to be seen whether the statutory elements are prima facie alleged (issuance of a Rs. 7,000,000 cheque; dishonour on presentation); the “dormant” memo is legally sufficient to ground S. 489-F absent the drawer’s statutory defence; and disputes about whether the cheque discharged an existing obligation, or about handwriting nuances, are quintessential trial issues. Superior Courts consistently caution against strangling complaint proceedings at the pre-trial stage; the trial court need only see a plausible case to proceed.

12. Issuance of a cheque, its dishonour on presentation, and the complainant’s sworn testimony constitute sufficient ground to proceed. The defences raised by the applicant relating to dormancy, forensic inconsistencies, and absence of commission records are not to be adjudicated at this threshold but are to be tested at trial through evidence. The jurisprudence of our superior Courts mandates that where two views are possible, the one advancing the cause of trial should be preferred so that justice is not stifled prematurely. To quash proceedings in revision at this stage would amount to short-circuiting the complainant’s right to prove his case and would frustrate the very purpose of Section 489-F PPC, which is designed to curb the menace of dishonestly issued cheques.

13. For the reasons discussed above, I find no merit in the revision application. The order dated 18.12.2023 passed by the learned Judicial Magistrate-VIII, Hyderabad, is upheld. The revision petition is dismissed.

14. The learned trial Court is directed to proceed with the complaint expeditiously and decide the matter on evidence, uninfluenced by any tentative observation herein.

15. These are the reasons of my short order dated 13.08.2025.

J U D G E

Irfan Ali