

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

Criminal Miscellaneous Application No. 313 of 2025

Applicant : Ali Akber through Mr. Hemandas S. Sanghani, Advocate.

Respondents : SSP Badin, SHO Badin and The State No.1,2&4 through Mr. Irfan Ali Talpur, Deputy Prosecutor General.

Respondent No.3 : Aftab Ahmed through Mr.Zubair Junejo, Advocate.

Date of Hearing : 28.8.2025.

Date of order : 21.11.2025.

ORDER

TASNEEM SULTANA, J.:-Through the instant Criminal Miscellaneous Application, the applicant/accused has assailed the order dated 15.05.2025 passed by the learned Sessions Judge/Ex-Officio Justice of Peace, Badin, in Criminal Miscellaneous Application No. 787 of 2025 under Sections 22-A & 22-B, Cr.P.C. filed by the complainant Aftab Ahmed, whereby the SHO, Police Station Talhar, is directed to record the statement of the complainant and to proceed in accordance with law.

2. Facts giving rise to filing of instant application are that the proposed accused, Ali Akber (applicant herein), had obtained seed and fertilizer worth Rs. 15,29,550/- from his shop, of which Rs. 7,55,750/- were repaid in cash while a cheque for the balance amount of Rs.7,73,800/- (Cheque No. 00452814 dated 07.05.2025, drawn on NBP Badin Branch) was issued. The said cheque, when presented, was dishonoured by the bank. Upon refusal by the concerned police station to register the FIR, the complainant invoked the jurisdiction of the learned Ex-Officio Justice of Peace under Sections 22-A and 22-B, Cr.P.C. After hearing both sides and examining the complaint cell report, the learned Sessions Judge/Ex-Officio Justice of Peace concluded that the facts disclosed a cognizable offence and accordingly directed the SHO to record the statement of the complainant and act in accordance with law. The said order has been impugned herein.

3. Learned counsel for the applicant has argued that the case is false, fabricated, and maliciously instituted in the backdrop of a

pending civil dispute before the learned Civil Judge/Consumer Protection Court, Badin. It is contended that the cheque in question was not issued to the complainant but to one Zaheer Ahmed as *security* in another business transaction, which the respondent No. 3 is now misusing to harass and blackmail the applicant. Counsel further submitted that the matter, being purely civil in nature, does not attract criminal liability under Section 489-F, P.P.C., and that the impugned order is based on misappreciation of facts and law.

4. Conversely, learned Deputy Prosecutor General, duly assisted by learned counsel for the complainant, has supported the impugned order, submitting that the applicant admittedly took goods on credit and issued the cheque as part payment, which was dishonoured upon presentation. The dishonour of a cheque constitutes a cognizable offence under Section 489-F, P.P.C., hence impugned order does not call for interference by this Court.

5. Heard. Record perused.

6. The allegation against the applicant is that he issued a cheque in discharge of a financial obligation arising out of a commercial transaction, which, upon presentation, was dishonoured for insufficient funds. The applicant's plea that the cheque was issued to a third party, Zaheer Ahmed, as security, and not to the complainant, is unsupported by any cogent evidence. There is nothing on the face of the cheque indicating that it was issued as a security instrument or subject to any condition. In business dealings, a cheque is presumed to have been issued in satisfaction of a lawful liability unless the contrary is proved by credible evidence. In the instant application, the applicant himself has admitted his signature on the cheque. The dishonour of a cheque due to insufficient funds, *prima facie* constitutes a cognizable offence under Section 489-F, P.P.C, warranting investigation. It was further contended that the claim of the cheque being a security instrument is an afterthought and requires factual determination through investigation. The applicant's defence, being factual in nature, cannot be adjudicated in the instant proceedings.

7. The learned Ex-Officio Justice of Peace has acted well within his jurisdiction in directing the SHO to record the complainant's statement and proceed in accordance with law. Such direction merely sets the investigative process in motion and does not prejudice the rights of the applicant. It is well settled law that the supervisory jurisdiction of this Court under Section 561-A, Cr.P.C., is to be exercised sparingly and

only in cases of manifest illegality, patent lack of jurisdiction, or grave miscarriage of justice. The impugned order does not suffer from any such infirmity, therefore, it does not call for interference by this Court.

8. For the foregoing reasons, this application being devoid of merits is dismissed. The impugned order dated 15.05.2025 is upheld. The SHO, Police Station Talhar, is directed to record statement of complainant and proceed in accordance with law.

JUDGE

Shabir/P.S