

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Misc. Application No. S-169 of 2025  
(Naeem Ahmed Rind Vs. The State & others)

Date	Order with signature of Judge
	1. For Orders on Office objection. 2. For hearing of main case. 3. For hearing on MA No. 1435/2025 (Stay)

**ORDER.**  
10-04-2025.

Mr. Shoukat Ali Makwal Advocate for the applicant.  
Mr. Ali Gohar Shar Advocate for respondent No.3.  
Syed Sardar Ali Shah Rizvi, Additional P.G for the State.

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**Ali Haider 'Ada', J:-**The Respondent No.03 filed an application under Sections 22-A and 22-B Cr.P.C before the Learned Sessions Judge/Ex-Officio Justice of Peace, Khairpur, which was subsequently entrusted to the Learned Additional Sessions Judge/Ex-Officio Justice of Peace, Mirwah. In the said application, the Respondent No.03 stated that the present applicant, Naeem Ahmed, used to purchase fodder and chaff from him and against the outstanding dues, issued two cheques, which were dishonored upon presentation due to closure of the bank account. Upon failure to settle the matter amicably, the Respondent No.03 approached the concerned police station for registration of the FIR, but the police declined to entertain his request. Left with no alternative remedy, he approached before the Learned Justice of Peace, for appropriate directions. He succeeded in obtaining an order for registration of FIR against the applicant, passed by the Learned Justice of Peace vide order dated 12.03.2025. The applicant assails the said order before this Court by preferring the instant Crl. Misc. Application.

2. Learned Counsel for the applicant submits that, although there was a business transaction between the applicant and Respondent No.03, all outstanding amounts were duly paid to Respondent No.03. The payments were made through bank instruments or direct deposits into the account of Respondent No.03, amounting to Rs. 290,000/-, Rs. 100,000/-, and Rs. 375,000/-. The applicant also moved an application to the DIG regarding the unlawful demand for interest by Respondent No.03. It is contended that Respondent No.03, having already received the entire principal

amount, is now, due to his greedy nature, demanding additional interest. Consequently, the applicant lodged FIR against Respondent No.03 under Section 3 of the Sindh Prohibition of Interest on Private Loans Act, 2023. A copy of the said FIR, along with the order passed by the Justice of Peace pursuant to which it was registered, has been placed on record under the cover of statement. In view of the above, learned counsel prays for setting aside the impugned order passed by the Learned Justice of Peace.

3. On the other hand, learned counsel for Respondent No.03 contends that the business transaction between the parties is admitted by the applicant. However, only a nominal amount has been paid, whereas a substantial outstanding liability of Rs. 5,000,000/- and Rs. 600,000/- remains against the applicant. It is argued that the applicant failed to fulfill his financial obligations. With regard to the cheques, it is submitted that the same were issued by the applicant, but with mala fide intent, as he deliberately issued cheques of accounts which were already closed. This, according to learned counsel, clearly reflects a dishonest intention to evade liability and such conduct warrants a thorough investigation. Furthermore, it is contended that the FIR registered by the applicant under the Sindh Prohibition of Interest on Private Loans Act, 2023 appears to be a counterblast to the proceedings initiated by Respondent No.03 and that the version of the applicant also requires scrutiny during investigation. Further argues that the application moved by the applicant before the DIG was forwarded to the concerned SHO, who thereafter submitted a report in favour of Respondent No.3 and learned Counsel placed such report. In light of these submissions, learned counsel prays that the present application is devoid of merit and is liable to be dismissed.

4. Learned Additional Prosecutor General for the State supports the order passed by the learned Ex-Officio Justice of Peace and seeks dismissal of the instant Criminal Miscellaneous Application. He contends that the offence under Section 489-F PPC is cognizable in nature and the facts presented before the learned Justice of Peace clearly reflect that the cheques in question were duly issued by the applicant. Furthermore, there is no denial of the underlying business transaction. It is thus apparent that the cheques were issued by the applicant in order to discharge a financial liability. He submits that the defence plea raised by the applicant is a

matter requiring thorough investigation, which can only commence after the registration of an FIR. Further, he has placed on record a report submitted by the concerned Station House Officer.

5. Heard arguments and perused the material available on record.

6. Record reflects that the cheques in question were issued on 18-10-2024 and 05-11-2024. Thereafter, the applicant submitted an application to the DIG Sukkur on 22-01-2025, which was duly forwarded to the SHO, Police Station Peer Wasan. In response, the SHO submitted a report to the DIG, confirming that the parties were engaged in a business relationship and that there was no dispute concerning any interest amount, as the cheques had been issued against the outstanding business liabilities.

7. In order to discuss the offence, it is very essential that section 489-F PPC is to be reproduced as the same is read as under:-

**489-F, Dishonestly issuing of cheque---***"Whoever dishonestly issues a cheque towards re-payment of a loan or fulfillment of an obligation which is dishonored on presentation, shall be punishable with imprisonment which may be extended to three years, or with fine, or with both unless he can establish for which the burden of proof shall rest on him, that he had made arrangements with his bank to ensure that the cheque would be honored and that the bank was at fault in not honoring the cheque".*

8. The fundamental objective behind the enactment of laws relating to cheque dishonor is twofold, firstly, to instill confidence in the banking system by ensuring that financial transactions are conducted in a secure and trustworthy manner; and Secondly, to deter individuals from issuing cheques dishonestly, thereby safeguarding the integrity of financial dealings and reinforcing the rule of law.

9. Further, in case of *Muhammad Sultan Vs. The State (2010 SCMR 806)*, it is held by Apex Court that:

"A perusal of sections 489-F, P.P.C reveals that the provisions will be attracted if the following conditions are fulfilled and proved by the prosecutions;---

- (i) Issuance of cheque;
- (ii) Such issuance was with dishonest intention;
- (iii) The purpose of issuance of cheques should be:---
  - (a) To repay a loan; or
  - (b) To fulfill an obligation (which in wide term inter alia applicable to lawful agreements, contracts, services, promises by which one is bound or an act which binds person to same performance.
- (iv) On prosecutions, the cheque is dishonored.

10 In instant case, the cheques were issued specifically in the name of respondent No. 3, supported by witnesses and the cheques were dishonored.

11. It is the duty of the Ex-Officio Justice of Peace to thoroughly examine all available documents and after applying a judicious and thoughtful mind, pass appropriate directions to the relevant authorities who have failed to perform their legal obligations. Furthermore, if a criminal case is registered, it becomes the primary responsibility of the Investigating Officer to collect evidence from all possible sources and no arrest should be made unless concrete and tangible evidence has been obtained by the Investigating agency.

12. In view of foregoing reasons, no illegality or irregularity seems in order passed by Learned Justice of Peace, therefore the instant Crl. Misc. Application stands dismissed together with listed application.

**J U D G E**