

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA**

Criminal Misc. Application No. S-310 of 2024

Applicant : Shafan Mirbhar s/o Kando Mirbhar,  
Through Mr. Muhammad Bachal Mangi,  
Advocate

Respondents : Through Mr. Waseem Akhtar Soomro,  
Advocate.

The State : Through Mr. Nazir Ahmed Banghwar,  
Deputy Prosecutor General.

Date of hearing : 14-07-2025

Date of order : 17-07-2025

**ORDER**

**KHALIDHUSSAIN SHAHANI, J.**— Through thisCriminal Miscellaneous Application under Section 561-A Cr.P.C., the applicant Shafan Mirbahar seeks to challenge and set aside the order dated 10.08.2024, passed by the learned Additional Sessions Judge/Ex-Officio Justice of Peace, Ratodero, in Cr. Misc. Application No.1291of 2024, whereby his application under Section 22-A(6)(i) Cr.P.C for registration of FIR against respondent No.3 (Asif Ali) was dismissed.

2. As per the applicant, respondent No.3 borrowed Rs.150,000/- from him and issued Cheque No.11237305 dated 30.03.2024 in return. The said cheque was dishonored by the bank due to unauthorized signature. The applicant alleged that the respondent intentionally issued a forged cheque to defraud him. Upon approaching P.S Naudero, the SHO allegedly refused to register the FIR, prompting the applicant to approach the Ex-Officio Justice of Peace, who dismissed his application, giving rise to the present proceedings.

3. Learned counsel for the applicant submitted that theimpugned order is perverse, as a prima facie cognizable offence had been disclosed from the applicant’s statement. He contended that it

was not necessary for the learned Justice of Peace to have sought a report from the police or to evaluate the genuineness of the cheque at that stage. He placed reliance on *2013 P.Cr.L.J 117* and *2014 P.Cr.L.J 1347*, arguing that the Justice of Peace ought to have directed registration of the FIR without requiring deeper inquiry or calling for a police report. It was urged that the cheque was issued in respect of a lawful debt and its dishonor, particularly with allegations of forgery, attracted criminal liability.

4. Mr. Nazeer Ahmed Bhangwar, learned Deputy Prosecutor General, opposed the application and submitted that the impugned order is well-reasoned and lawful. He pointed out that the cheque in question is not in the name of the present applicant but in the name of Shafi Muhammad Mirani, and there is nothing on record to show that the said person and the applicant are one and the same. Furthermore, he noted that the cheque carries overwriting on the date, which casts doubt on its authenticity. He submitted that no cognizable offence is made out from the applicant's version and that the dispute, if any, is of civil nature, amenable to the jurisdiction of the civil court.

5. Mr. Waseem Akhtar Soomro, learned Advocate for respondent No.3, adopted the arguments of the learned DPG and further contended that the applicant, having failed to establish that the cheque was issued in his name or against a legally enforceable liability, cannot resort to criminal proceedings to exert pressure. He argued that allowing such applications would open the floodgates for abuse of the criminal justice system, particularly in private money-lending disputes, which ought to be resolved through appropriate civil remedies.

6. I have heard the learned counsel for the parties and perused the material available on record.

7. The impugned order reflects that the learned Justice of Peace examined the cheque annexed with the application and found that it was not issued in the name of the applicant but in the name of

another individual, Shafi Muhammad Mirani. The applicant neither explained this discrepancy nor produced any document showing authority to claim under the said cheque. Moreover, the cheque contained visible overwriting on the date, raising suspicion about its genuineness.

8. In light of the above, the learned Justice of Peace rightly concluded that the matter appeared to be a civil dispute regarding return of loan or dishonored negotiable instrument, rather than a cognizable offence warranting registration of FIR under Section 154 Cr.P.C. No material was brought on record suggesting that the act of the proposed accused involved elements of criminal intent or fraud sufficient to attract the mischief of Sections 406, 420, or 489-F PPC.

9. The inherent jurisdiction of this Court under Section 561-A Cr.P.C. is intended to prevent abuse of process of court and to secure the ends of justice, not to reopen factual determinations properly made by subordinate courts absent manifest illegality. No illegality, jurisdictional defect, or perversity is found in the impugned order, which has been passed with due appreciation of facts and law. The Hon'ble Supreme Court has reiterated that criminal law should not be allowed to be used as a tool for recovery of civil dues or in aid of private vendettas, especially when the dispute is based on private financial transactions and is devoid of criminal intent. Resultantly, the instant Criminal Misc. Application being devoid of merit stands dismissed.

**JUDGE**

Asghar Altaf/P.A