

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Misc. Application No. S- 731 of 2024
(Mukesh Kumar Versus SHO PS C-Section & others)

Date of hearing	Order with signature of Judge
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- 1. For non-prosecution of office objection.
- 2. For hearing of main case.

29-09-2026

Mr. Sikandar Ali Junejo, Advocate for the applicant.
Mr. Mansoor Ahmed Shaikh, Deputy P.G for the State.

Suresh Kumar,J. Through instant CrI Misc. Application under section 561-A Cr.P.C, the applicant has impugned order dated 04-11-2024 passed by learned Vth Additional Sessions Judge/Ex-officio Justice of Peace, Sukkur in Cr. Misc. Application No.3338/2024 Re. Mukesh Kumar Vs. SHO PS C-Section Sukkur & others, thereby disposed of the application under section 22-A & 22-B Cr.P.C filed by the applicant for registration of FIR with advise to file direct complaint.

2. Succinctly, the facts of the case are that on 21-07-2024, the respondent No. 2, Gordhan/proposed accused, approached the applicant and requested him to provide an amount of Rs. 2 Crore for the purpose of investment in another business, assuring that he would pay the profit amount to him and, in lieu of such payment, would issue cheques. In this regard, the applicant placed his trust in the proposed accused and gave him an amount of Rs. 2 Crore in the form of Pakistani currency notes in the presence of witnesses Anesh Kumar and Hari Chand. The proposed accused issued him four cheques bearing No. 10755810 amounting to Rs. 50,00,000/- dated 01-08-2024, Cheque No. 10755811 amounting to Rs.

50,00,000/- dated 05-08-2024, Cheque No. 10755813 amounting to Rs. 50,00,000/- dated 01-09-2024, and Cheque No. 10755814 amounting to Rs. 50,00,000/- dated 05-09-2024, drawn on Al-Habib Bank, Sukkur Branch, with the account title as Jhulay Lal Electronics and Solar System. Thereafter, the applicant submitted the cheques to the concerned bank, but they were returned with a dishonor memo. The applicant then approached the proposed accused for payment of the profit and return of the amount; however, he recorded an NC report and also moved an application to the Bank Manager. Subsequently, the proposed accused executed an Iqrarnama on 10-08-2024 for holding a private Faisla, and ultimately, he registered the FIR bearing Crime No. 189/2024 at PS A-Section Sukkur.

3. I have heard learned counsel for applicant as well as learned DPG for the State. While the respondent No. 2 and his counsel remained absent.

4. Learned counsel for applicant has contended that impugned order passed by learned Vth Additional Sessions Judge/Ex-Officio Justice of Peace Sukkur is neither legal nor proper in the eyes of law. He has further contended that as per section 154 Cr.P.C, it is primary duty of the police to record the statement of the applicant and if cognizable offence is made out then to register the FIR, but SHO concerned has violated the law. He has lastly contended that learned Ex-Officio Justice of Peace has not considered the section 154 Cr.P.C while passing the impugned order; therefore Crl. Misc. Application may be allowed and impugned order may be set aside with direction to SHO to record the statement of the applicant.

5. Learned Deputy P.G has supported impugned order and contended that learned Ex-Officio Justice of Peace has rightly stated that FIR bearing Crime No. 189/2024 was already registered and Civil Suit in

respect of the cheques in question is also pending; therefore, in such circumstances direct complaint u/s 200 Cr.P.C is appropriate remedy for the applicant.

6. Having given due consideration to the arguments advanced by counsel for parties and perused impugned order.

7. From the perusal of the impugned order it reveals that learned Vth Additional Sessions Judge/Ex-Officio Justice of Peace Sukkur has disposed of the application with following observation.

"I am agreed with the contention of learned counsel for the respondent as such one FIR bearing No.189/2024 PS-Section, Sukkur U/S 380.420,504,34 PPC in respect of same cheques has already been registered and charge sheet has already been submitted. One Civil Suit for cancellation of cheque has also been filed in respect of same cheques therefore, it will be appropriate for the applicant to file the Direct Complaint under section 200 Cr.P.C rather than registration of second FIR in respect of same offence for which one FIR has already in field Law also provides that Direct Complaint should be proceeded first when the same is relating to the offence for which the FIR has already been registered. Since the Direct Complaint is also equally efficacious remedy available to the applicant therefore, applicant is advised to file Direct Complaint. With these observations, application in hand stands disposed of accordingly".

8. From a bare reading of the above order, it reveals that FIR bearing Crime No. 189/2024 in respect of the cheques in question has already been registered; therefore, the learned Ex-Officio Justice of Peace has rightly observed that a direct complaint is the appropriate remedy in the above circumstances. The Hon'ble Supreme Court, in the case of Muhammad Fareed v. Government of Sindh & others (2002 CLC 530), held that a private complaint is an efficacious remedy because the complainant has full control over the proceedings and can present the entire evidence directly before the Court without depending on police discretion. A

similar view has been taken by the Hon'ble Supreme Court in the case of Rai Ashraf v. Muhammad Saleem Bhatti (PLD 2010 SC 691), in which it has been held as follows:

"It is admitted fact that petitioners have alternate remedies to file private complaint before the competent Court; therefore, constitutional petition was not maintainable and the High Court has erred in law to send the copy of writ petition to the S.H.O concerned"

9. Moreover, the SHO concerned, in his report submitted before the learned Ex-Officio Justice of Peace, has also not agreed with the version of the applicant regarding the cheques in question and further stated that the other version has already been brought on record in Crime No. 189/2024. In such circumstances, a private complaint under Section 200 Cr.P.C. is the appropriate remedy because the complainant has full control over the proceedings and can present the entire evidence directly before the Court without depending on police discretion, as held by the Hon'ble Supreme Court in the case of Muhammad Fareed v. Government of Sindh & others, as referred to above.

10. For the reasons above and guidance taken from above cited case law, I am of the considered view that learned Ex-Officio Justice of Peace has rightly disposed of the Crl. Misc. Application filed by the applicant with the observation that applicant is advised to file direct complaint, which is equally efficacious remedy available to the applicant; therefore the impugned order passed by learned Ex-Officio Justice of Peace requires no interference, which is hereby maintained; consequently the instant Crl. Misc. Application is dismissed.

J U D G E

Nasim/P.A

