

**IN THE HIGH COURT OF SINDH, AT KARACHI**

**PRESENT:-**  
**MR. JUSTICE MUHAMMAD IQBAL KALHORO**  
**MR. JUSTICE SHAMSUDDIN ABBASI.**

**Criminal Revision Application No.159 of 2015**

Applicant	The State, Through Mr. Abdul Jabbar Rajput, Assistant Attorney General, a/w Abdul Rauf, Assistant Director {FIA}.
Respondent No.1	Muhammad Ehsan son of Muhammad Ahsan {In person}.
Date of hearing	14.09.2018
Date of order	14.09.2018

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**J U D G M E N T**

**SHAMSUDDIN ABBASI, J:-** Impugned in this Criminal Revision Application is the order dated 19.11.2015, passed by the learned Special Court (Offences in Bank), Sindh, at Karachi, in Case No.40 of 2014, arising out of FIR No.30 of 2014 registered at P.S. FIC, CBC, Karachi, under Sections 409, 420, 467,468, 471, 109 & 34, PPC read with Sections 5(2) of PCA, 1947 and 3 /4 AML Act, 2010.

2. Facts relevant to this revision applications are that on 30.05.2014 at 1705 hours a case vide FIR No.30 of 2014 was registered at P.S. FIA, CBC, Karachi, through complainant Samiuddin Siddiqui, Metropolitan Commissioner, Karachi Metropolitan Corporation, Karachi, for offences punishable under Sections 409, 420, 467,468, 471, 109 & 34, PPC read with Sections 5(2) of PCA, 1947 and 3 /4 AML Act, 2010, wherein the incident is shown to have taken place on in the year 2008 and onwards during which period an amount of more than one billion rupees was embezzled from government funds by the bankers, KKC officials and private associates, nominated in the FIR and challan, through fake/illegal bank accounts.

3. Before submission of final challan dated 19.11.2015, the prosecution filed a supplementary challan dated 17.09.2014, which was accepted by the trial Court, treating the same as final, vide order dated 31.03.2015. During pendency of the case, the investigating officer submitted final dated 19.11.2015 against accused Ehsan and 20 others, which was rejected by the trial Court on the ground that the same has been filed after lapse of eight months without sufficient cause and seeking permission from the Court of such elapsed period vide impugned order dated 19.11.2015, hence this criminal revision application.

4. Mr. Abdul Jabbar Rajput, Assistant Attorney General for Pakistan has contended that the crime is with respect to embezzlement of government funds of more than one billion rupees through fake accounts and after thorough investigating it was proved that accused nominated in the final challan are involved in the commission of crime. It is next submitted that the learned trial Court did not consider the merits of the investigation and rejected the final challan without assigning valid and cogent reasons merely on the ground that the Court has already taken cognizance on the basis of supplementary submitted earlier. It is also submitted that law does not provide any time frame for submission of subsequent challan, hence the findings of the learned trial Court are not just and proper and liable to be reversed. In support of his contentions, he has placed reliance on the cases of *Muhammad Hanif Pathan v The State and 3 others* (PLD 1999 Karachi 121), *Mustafa and others v The State* (2009 YLR Lahore 1375), *Raja Khurshid Ahmed v Muhammad Bilal and others* (2014 SCMR 474), *Muhammad Akbar v The State and another* (1972 SCMR 335) and *Mitho alias Muhammad Mithai v Province of Sindh through Secretary Home Department and 15 others* (2018 P.Cr.L.J. 101).

5. Respondent No.1, present in person, submitted that the investigating officer firstly submitted interim challan on 16.06.2014 and thereafter supplementary challan dated 17.09.2014, which was treated as final challan taking the cognizance in the matter, hence the trial Court has rightly rejected the final challan. It is next submitted that acceptance of final challan would amount to fill the

lacunas in the case. The order of the learned trial Court is sound and speaking one and further investigation in the matter, without permission of the Court, is inadmissible in the eyes of law and prayed for dismissal of the revision application being meritless.

6. We have given anxious consideration to the arguments of both the side and perused the entire material available on record.

7. The issue involved in the present case is similar to the issue that we have already decided in other matters, titled as "*The State through Deputy Attorney General for Pakistan v Presiding Officer, Special Court {Offences in Banks}, at Karachi & others {Criminal Revision Application No.06 of 2017}*" and *Ms. Ayesha Malvina Abbasi v Presiding Officer, Special Court {Offences in Banks}, at Karachi & others {Criminal Revision Application No.13 of 2017}* vide order dated 03.09.2018, operative part whereof is reproduced as under:-

*"The case pertains to white collar crime allegedly committed by the accused, who have been declared as proclaimed offenders and the nominated accused shown in the supplementary challan are the beneficiary of the misappropriated amount, hence they are also liable to be prosecuted. The trial Court has out rightly rejected the supplementary challan without giving due weight to the documents and evidence collected during investigation by the I.O. Such an approach of the trial Court is not tenable under the law because the law stipulates the decision of controversies on merits rather than on technicalities. The reinvestigation of the case even after submission of the final challan is not barred under the law but the trial Court completely ignored this aspect of the matter. In this respect, we place reliance on a case of *Raja Khurshid Ahmed v Muhammad Bilal and others (2014 SCMR 474)*, wherein it has been held as:-*

*"It would be seen that as per settled law, there is no bar to the reinvestigation of a criminal case and the police authorities are at liberty to file a supplementary challan even after submission of the final report under section 173, Cr.P.C."*

*In another case of *Bahadur Khan v Muhammad Azam and 2 others (2006 SCMR 373)*, it has been held as under:-*

*"It is well settled proposition of the law as also held consistently in the important judgments of this Court and those cited by the learned Advocates on Record, in view of the provision of section 173, Cr.P.C. that no legal bar existed for reinvestigation of a criminal case even after*

*submission of final report under Section 173, Cr.P.C. and the police could carry out the fresh investigation and submit its report to the Court”.*

*10. For what has been discussed herein above, we are of the considered view that the impugned order dated 26.11.2016 is unjust and improper and cannot be sustained in the eyes of law. Consequently, the same is hereby set-aside. The trial Court shall accept the supplementary challan and proceed with the matter in accordance with law.*

*11. With the above observations, both criminal revision applications stand allowed”.*

8. Since we have already decided the issue involved in this criminal revision application in other matters and rendered our view, referred herein above, therefore we are left with no other option but to allow this criminal revision application. The trial Court shall accept the final challan and proceed with the matter in accordance with law.

JUDGE

JUDGE

Naeem