

**IN THE HIGH COURT OF SINDH, BENCH AT
SUKKUR.**

Crl. Misc. Application No. S-483 of 2022

Date of hearing	Order with signature of Judge
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1. For hearing of main case.
2. For hearing of MA NBo.3982/2022 (stay)

ORDER.
16.12.2022.

Mr. Muhammad Zohaib Azam, Advocate for applicant.
Mr. Ali Murad Malano, Advocate for Respondent No.3.
Syed Sardar Ali Shah, Additional Prosecutor General.

NAIMATULLAH PHULPOTO J., Through this Criminal Misc. Application applicant Muhammad Ramzan Mazari has called in question order dated 15.09.2022 passed by learned 1st Additional Sessions Judge (MCTC) / Ex-officio Justice of Peace, Ghotki in Criminal Misc. Application No. 2654 of 2022 for recording statement of Mukhtiar Ahmed and if from his statement cognizable offence is made out, such FIR be registered in accordance with law.

2. Notice of this application was issued to respondents as well as Additional Prosecutor General.

3. Learned advocate for the applicant / proposed accused mainly contended that there was business transaction in between applicant and respondent No.3 and cheque was issued as security and directions for registration of the case/FIR were not appropriate in the circumstances of the case.

4. Learned Additional Prosecutor General assisted by Mr. Ali Murad Malano counsel for respondent No.3 argued that impugned order is based upon sound reasons and it is conditional order, in case from the statement of applicant cognizable offence is made out then FIR be registered in accordance with law. It is further argued that applicant has committed a cognizable offence and concerned SHO was legally bound to register FIR but he refused without legal justification. Lastly submits that Criminal Misc. Application is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the impugned order. Learned 1st Additional Sessions Judge / Ex-officio Justice of Peace in para No.6 of the impugned order, has mentioned as under :-

“ Since, cheque in question was presented for encashment with Meezan Bank Ltd, Ghotki Branch, but the same was dishonoured due to insufficiency of funds by concerned branch of aforesaid bank, hence applicant may appear before respondent No.1, SHO PS Sarhad, who is directed to record the statement of applicant and if from his statement cognizable offence is made out, such FIR be registered in accordance with law. Accordingly, instant application stands allowed.”

6. Aforesaid order is based upon sound reasons, cheque was issued by the applicant and it was presented for encashment in the bank and it was dishonoured due to insufficiency of funds. No illegality or infirmity in the impugned order has been pointed out. Directions issued by learned Ex-Officio Justice of Peace were appropriate in the case, same requires no interference. Resultantly, Criminal Misc. Application is without merit and the same is dismissed,

interim order passed by this Court vide order dated 19.09.2022 is hereby recalled. Concerned SHO is directed to record statement of respondent No.3 Mukhtiar Ahmed if cognizable offence is made out, such FIR be registered in accordance with law, however, no arrest shall be made till some tangible material is collected against accused.

7. The Criminal Misc. Application is disposed of in the above terms.

J U D G E

Irfan/P.A