

**IN THE HIGH COURT OF SINDH AT KARACHI****Crl. Misc. Application No. 755 of 2023**

Applicant : Aziz Abdul Rahim Kassamali  
through Mr. Paras Ali Lodhi, Advocate

Respondent No.1 : The State  
through Mr. Zahoor Shah, DPG

Respondent No.3 : Muhammad Farooq  
through Mr. Agha Shahzaib, Advocate

Date of hearing : 20<sup>th</sup> November, 2023

**ORDER**

**Omar Sial, J:** F.I.R. No. 325 of 2023 was registered under section 489-F P.P.C. at the Darakshan police station in Karachi on 12.7.2023 on information provided by Mohammad Farooq. The police recommended disposal of the case under C Class however the learned magistrate disagreed with the police recommendation and took cognizance against Aziz Abdul Rahim Kassamali vide order dated 08.09.2023. On 02.10.2023, nearly a month after cognizance was taken, Kassamali has filed this application under section 561-A Cr.P.C. praying that the order of the magistrate dated 08.09.2023 be set aside.

2. I have heard the learned counsel for the applicant.

3. A number of documents have been attached by the counsel for the applicant along with the application. His entire argument is based on showing that the review of these documents will show that no offence has occurred. With much respect, the arguments made by counsel, in order to be correct, require a deeper analysis of evidence. Counsel very rightly agrees that a magistrate is not bound down by a recommendation of the police. It is also pertinent to mention that the challan in the case has

already been filed and cognizance taken. In light of the judgment reported as **Director General Anti-Corruption Establishment, Lahore vs Muhammad Akram Khan and others (PLD 2013 SC 401)**, the proper remedy for the applicant would be to invoke section 265-K or 249-A Cr.P.C., as the case may be, if he is of the view that the charge against him is groundless or that there is no probability of a conviction.

4. Application is dismissed.

**JUDGE**