

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Crl. Misc. Application No.S-600 of 2023**  
*(Ali Hyder Arain Vs. DSP Complain Cell Naushahro Feroze & others)*

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of main case.
2. For hearing of CMA No. 4982/2023 (Satay)

**16-11-2023.**

Mr. Shabbir Ali Bozdar, advocate for the applicant.  
 Mr. Qurban Ali Malano, advocate for the private respondent.  
 Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General.

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**IRSHAD ALI SHAH, J.-.** The applicant by preferring the instant Crl. Misc. Application has impugned order dated 14-06-2023 passed by learned Additional Sessions Judge/Ex-Officio Justice of Peace, Moro, whereby he has directed the police to record statement of the private respondent for purpose of FIR with regard to issuance of cheque by him in favour of the private respondent, dishonestly.

2. It is contended by learned counsel for the applicant that the cheque was issued as guarantee on account of purchase of fertilizer, which has been misused by the private respondent malafidely and such aspect of the case has been lost sight of by learned Ex-Officio Justice of Peace, while passing the impugned order, therefore it is liable to be set aside.

3. Learned DPG for the State and learned counsel for the private respondent by supporting the impugned order have sought for dismissal of instant Crl. Misc. Application by contending that the cheque has been issued by the applicant dishonestly in favour of the

private towards part payment of a vehicle and such act constitute a cognizable offence on his part.

4. Heard arguments and perused the record.

5. Apparently, there is dispute between the parties over sale and purchase of fertilizer and vehicle. It is alleged by the applicant that the cheque has been misused by the private respondent malafidely, which infact was issued as a guarantee. If for the sake of arguments, it is believed that the subject cheque has actually been issued by the applicant in favour of the private respondent dishonestly towards part payment of vehicle and it has been bounced by the Bank when was presented there for encashment and for that his FIR is not being recorded by the police, even then he has an alternate remedy to exhaust by filing a direct complaint of such incident before the Court having jurisdiction for the reason that the police has hardly to do anything in the case like present one, wherein the entire material which is to be collected by the police on investigation is already lying with the private respondent. Such remedy, if is exhausted by private respondent besides being alternate, would be adequate in the circumstances; consequently, the impugned order is set aside.

6. The instant Crl. Misc. Application is disposed of accordingly together with listed application.

**Judge**

