

*Order Sheet*

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

**Cr. Misc. Appln: No.S-636 of 2020**

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DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For orders on office objection  
For hearing of main case  
For hearing of MA-8183/20 (stay)

**11.08.2023**

Mr. Ahsan Gul Dahri advocate for applicant.  
Ms. Rameshan Oad, A.P.G. for the State.  
No one is in attendance on behalf of respondent No.3.

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**ZULFIQAR ALI SANGI, J:-** Through this application, applicant has challenged the order dated 12.10.2020 passed by learned Ex-Officio Justice of Peace / Illrd. Additional Sessions Judge, Shaheed Benazirabad in Criminal Miscellaneous Application No.2623 of 2020 under section 22-A(6(i), Cr.P.C. filed by the respondent No.3 against the applicant, whereby he disposed of aforesaid application accordingly with clarification that in case the FIR is registered, no arrest shall be made unless some material evidence is brought on record connecting the proposed accused with the commission of alleged crime.

It is contended by learned counsel for applicant that cheque was never been issued in the name of respondent No.3 and it was self attended that such fact has not been considered by the learned Ex-Officio Justice of Peace while passing the impugned order, therefore, the order is illegal and liable to be set aside.

On the other hand, learned A.P.G has conceded to the above legal position.

On perusal of record it reflects that if the cheque bearing No.89089509 was issued as 'Self' only, then there will be no question of any offence, which also allows the (unidentified) bearer to collect the proceeds and is presented by any person. Even it does not reflect that the cheque was issued being cross cheque. In the present case, it is quite obvious, if the payee is 'self' it can be reasonably and correctly presumed that the money for which the cheque was issued was to be paid to the drawer himself and it is also reasonable to presume that a person would not dishonestly issue a cheque to pay money to himself and that the cheque was not issued towards the repayment of a loan or towards the fulfillment of some legal obligation one has towards oneself. It is important to note that a 'self-cheque' has neither been defined by the Penal

Code nor the negotiable instruments Act, 1881, but it is obviously a cheque wherein the drawer himself is the payee. The term 'payee' has been explained by Section 7 of Negotiable Instrument Act, 1881 to mean "The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid". It is strange to note that the impugned order is absolutely silent about the fact of the cheque in issue being a 'self cheque' while ordering for registration of a criminal case against the applicant. In such circumstances, no offence is made out from the assertion and scrutiny of the cheque, therefore, instant application is allowed and impugned order dated 12.10.2020 passed by learned Ex-Officio Justice of Peace / Illrd. Additional Sessions Judge, Shaheed Benazirabad is hereby set aside.

JUDGE

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