

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Crl. Misc. Application No.S-106 of 2022**  
*(Muhammad Adil Ansari Vs.The State & others)*

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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For non-prosecution.

*Office objections not complied with.*

**30-01-2024.**

Mr. Mehfooz Ahmed Awan, advocate for the applicant.  
 Mr. UbedullahMalano, advocate for the respondent No.2.  
 Mr. Munir Ahmed Maitlo, Law Officer SSGC/Proposed accused.  
 Mr. Muhammad AslamJatoi, Assistant Attorney General, Pakistan.

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The applicant by way of instant Crl. Misc. Application has impugned order dated 22-02-2022 whereby learned IInd Civil Judge & Judicial Magistrate, Sukkur has taken the cognizance of offence outcome of FIR Crime No. 08/2022, u/s 15, 17, 24 of Gas (Theft control and Recovery) Act, 2016, of PS C-Section Sukkur.

It is contended by learned counsel for the applicant that the cognizance of the offence committed under Gas (Theft Control and Recovery) Act, 2016, could only to be taken on a complaint filed by authorized officer; therefore, its cognizance by learned trail Magistrate on the basis of FIR lodged with Police is illegal. By contenting so, he sought for setting aside of the impugned order, which is opposed by learned Assistant Attorney General and law officer of SSGC by contending that the concession was available only to domestic consumer. In support of their contention, they relied upon case of *Mian Haroon Riaz Lucky and another Vs. The State and others* (2021 SCMR 56).

Heard arguments and perused the record.

Whether the applicant is domestic or commercial consumer, such fact is to be determined by learned trial Court. The cognizance of offence has already been taken by learned trial Magistrate on the basis of material brought before him, same could not be declared illegal in summary manner on the basis of technicalities. If the applicant is having a feeling that the charge against him is groundless and there is no probability or possibility of his conviction, then he could legally seek his premature acquittal by filing such application before learned trial Court by joining the trial.

In case of *Raja Amir Muhammad Vs. The State (SBLR 2004 SC 02)*, it has been held by Apex Court that;

*“We found that while rejecting the application of the petitioner the trial Court had taken a view that under sub-section (i) of Section 4 of Pakistan Criminal Law (Amendment) Act, 1958 a Special Judge has jurisdiction to take cognizance of any offence committed within his territorial limits and triable under the said Act, upon a report of such facts made by any police officer, and since the trial Court has already taken cognizance of the alleged offence on the challan submitted against the petitioner by the DSP, which is virtually a report of facts constituting the offence committed by the petitioner, therefore, contravention of Rule 11 of Sindh Enquiries & anti-Corruption Rules 1993 in view of provisions of sub-section ((1) of Section 4 of the Pakistan Criminal Law Amendment Act 1958, shall not affect or vitiate the trial.*

No material illegality even otherwise is noticed in the impugned order, which may justify this Court to interfere with the same by way of instant CrI. Misc. Application, it is dismissed accordingly.

**JUDGE**



