

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Misc. Appln:No.S-793 of 2024

Applicant: Mahmood Jokhio through Mr. Ahsan Gul Dahri,
Advocate.

Respondent: Kishan Chand through Mr. Ayaz Hussain Tunio,
Advocate.

The State: through Mr. Irfan Ali Talpur, APG for the State.

Date of hearing: **13.01.2025**

Date of Order: **13.01.2025**

O R D E R

AMJAD ALI SAHITO, J:- Through this Criminal Misc. Application filed under Section 561-A Cr.P.C, the applicant Mahmood Jokhio has impugned the order dated 19.11.2024, passed by learned 2nd Additional Sessions Judge/Ex-officio Justice of Peace Shaheed Benazirabad, whereby SHO PS Kazi Ahmed was directed to register a criminal case against applicant.

2. Per learned counsel for the applicant that infact respondent No.3 has obtained impugned order by tempering the alleged cheque from 2022 to 2023. He further contended that the contention raised by the proposed accused before the learned trial Court was not considered by the Court and in summarily manner passed the impugned order. He submitted that the entire dues have been cleared even then the learned trial Court has passed order for registration of FIR. He lastly prayed that instant application may be allowed and impugned order may be set-aside.

3. On the other hand, Mr. Ayaz Hussain Tunio, advocate appearing on behalf of respondent No.3 and produced the original

cheque along with memo and stated that bank has not raised any objection however, in their memo the bank has returned the cheque with endorsement insufficient funds/dormant/closed.

4. Learned A.P.G has also supported the impugned order.

5. Heard & perused.

6. The case of the respondent No.3 is that on the different times the proposed accused has purchased Urea and DAP bags so also obtained a cash amount and subsequently has issued a cheque amounting to Rs.9140000/- dated 30.09.2023 and on presentation same was returned with endorsement insufficient funds/dormant/closed account. From the face of record it appears that allegedly cognizable offence has been committed by the proposed accused persons/applicant and the contention raised by the learned counsel for applicant will be decided by the investigating officer when FIR will be registered.

7. In view of above, instant application is dismissed. However, SHO concerned is directed to record the statement of the respondent No.3 Kishan Chand as per his verbatim and if, cognizable offence is made out the same shall be incorporated in the book under Section 154 Cr.P.C. However, it is made clear that no arrest shall be made in the subject FIR until and unless tangible evidence is brought on record. The application stands disposed of accordingly.

JUDGE