

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Misc. Application No.193 of 2023

Applicants : Muhammad Imran s/o Muhammad Amin
Syed Furqan Ahmed s/o Syed Habibullah
Through Khawaja Shamsul Islam,
Advocate (called absent).

Respondent : Muhammad Ali Ahmed is called absent.

The State
: Through Ms. Rahat Ehsan, Additional
Prosecutor General, Sindh

Date of hearing : 06.03.2025

Date of order : 06.03.2025

ORDER

AMJAD ALI SAHITO, J – Through this Misc. Application, applicants/accused impugned the order dated 13.03.2023 passed by learned Xth Judicial Magistrate Malir Karachi in Crime No.10/2023 registered under Section 468, 471, 34 PPC at PS Sharfi Goth.

2. The instant Criminal Misc. Application was presented on 22.03.2023, since then no progress is made out. Today, Ms. Sabahat Kiran, Advocate requests that her senior Khawaja Shamsul Islam, Advocate is busy before another bench. Such, request is declined.

3. The case of the prosecution is that the complainant is businessman and running a factory with the name of Kachkol Sports Wear on Plot No.339/340 situated in Sharafi Goth near Shah Ali Goth. The complainant and accused Imran also maintain business with one firm of Dubai viz. Artistic Legend Real Estate in partnership and sometime back, complainant came to know that accused Imran forging certain documents of firm in collusion with his son Mohsin Imran and Syed

Furqan Ahmed and got executed one manipulated power of attorney in Karachi, on the basis of which, he filed suit in the Court of U.A.E. by claiming that from the said firm in the sum of 3.6 Million Dirhams, four apartments bearing Nos.602, 603, 712 and 504 situated in JVC Albershah South-IVth Dubai have been purchased but in fact the said documents are executed by way of fraud and manipulation as complainant did not sell any apartment to accused Syed Furqan Ahmed and Imran Amin. It is further alleged that on 06.01.2023 complainant along with his employee Azeem Solangi were coming towards his company in car when at about 10:00 hours, they reached at Shah Faisal Bridge Road near Hashim Shah shrine, one unknown registered number car wherein three persons were available, came there and signaled them to stop their car by pressing its side as such complainant party stopped their car and then accused Syed Furqan along with two unknown accused came out from the car and showing pistol and documents, stated that these documents are of said four apartments which have been sold out by complainant to him, to which, complainant refused to accept such claim, on which, accused Syed Furqan Ahmed pointed his pistol upon complainant and disclosed that now attorney of said apartments is in his name and if he raised any query upon it, would not be spared and saying so they all went away in their car; hence, the complainant booked Syed Furqan Ahmed, Imran Amin and Mohsin Imran along with two unknown persons in the FIR No.10/2023 under Section 468, 471, 34 PPC. After registration of FIR, usual investigation was conducted by the investigation office who has recorded statements of witnesses, visited the site, obtained CDRs, collected relevant record and interrogated to accused Syed Furqan Ahmed and Imran Amin, in which, he has concluded that no any role of accused No.2 Imran Amin and Mohsin Imran is established in forging the alleged

documents except the role of accused No.1 Syed Furqan Ahmed, hence, he has submitted final report U/s 173 Cr.P.C. with recommendation to take cognizance against accused No.1 Syed Furqan Ahmed for forging the documents and let off to accused Imran Amin and Mohsin Imran having no nexus in the alleged offence. On submission of final report, complainant and accused persons were called in person for personal inquiry, to which, complainant and accused No.1 Syed Furqan Ahmed appeared alongwith his counsel, however, accused Imran Amin and Mohsin Imran could not bother to appear in person but counsel representing to accused No.2 Imran Amin appeared.

4. I have perused the material available on record which reflects that there was no case against the applicant even report was submitted by the I.O under "C" class even then the learned trial Court took the cognizance of the offence and discharge the accused No.3 Mohsin Imran. She further submits that unnecessarily applicants have been dragged in this case.

5. Learned Addl. P.G, Sindh supported the impugned order.

6. From the perusal of record, it reflects that FIR being Crime No.10 of 2023 was lodged by Muhammad Ali Ahmed against the accused persons and the investigation was conducted and I.O submitted summary / police report under Section 173 Cr.P.C before of the learned trial Court wherein the I.O of the case was of the view that to take cognizance of the offence against the accused No.1 Syed Furqan Ahmed except accused Imran Amin and Mohsin Imran. After going through the material collected by the I.O, the learned Magistrate passed the order and took cognizance of the offence against accused Syed Furqan Ahmed and Imran Amin, the present applicants and discharge accused No.3

Mohsin Imran. Since, the learned Magistrate on the basis of evidence took the cognizance of the offence. As such, in view of the judgment reported as PLD 2016 SC 55 and PLD 2013 SC 401. The Honorable Supreme Court of Pakistan has held that in such circumstances it is appropriate for the applicant to file application under Section 249-A / 265-K Cr.P.C for premature acquittal.

7. In view of the above, the instant application is **dismissed**; however, the applicant is at liberty to file application under Section 249-A/265-K Cr.P.C, if he chooses so. Once the application is filed, the learned trial court shall decide the same in accordance with law within one month after notice to all concerned.

JUDGE

Hyder/PA*