

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Misc. Application No.1252 of 2024

Applicant : Peter Ahsan son of Ahsan Inayat
Through Muhammad Shoaib Khan,
Advocate

Respondent : M/s Fast Cables Pvt. Ltd. through
authorized representative Mr. Owais
Nadeem son of Abdul Wahid, through
: M/s Muhammad Daud Narejo,
Muhammad Yousif, Kamran Ali and
Ms. Anjli Talreja, Advocates.
:
The State
Through Ms. Hina, Deputy Prosecutor
General, Sindh.

Date of hearing : 09.04.2025

Date of order : 09.04.2025

ORDER

AMJAD ALI SAHITO, J -- Through the instant Criminal Miscellaneous Application, the applicant/accused assails the impugned orders dated 11.12.2025 and 31.07.2024, respectively, passed by the learned IIIrd Additional Sessions Judge/Ex-Officio Justice of Peace, Karachi-South, in Criminal Miscellaneous Petitions No. 4367 and 2581 of 2024, whereby directions were issued for the recording of the complainant's statement under Section 154, Cr.P.C. Upon hearing the parties, the learned Judge allowed the said petitions and directed the Station House Officer, Police Station Boat Basin, Karachi, to record the complainant's statement and proceed strictly in accordance with law. Being aggrieved by the aforementioned orders, the applicant has preferred the present Criminal Miscellaneous Application.

2. Learned counsel for the applicant submits that Respondent No. 1 filed two separate applications on different

dates before the Station House Officer (SHO), Police Station Boat Basin, seeking the registration of an FIR against the applicant. However, the SHO declined to initiate any legal proceedings on the basis of these applications, citing that the matter is sub judice before the competent Civil Courts, where both parties have instituted civil suits against each other.

3. It is contended that the first application was submitted on 24.07.2024, pursuant to which the learned court directed the SHO, Police Station Boat Basin, to record the statement of the respondent. The SHO, in compliance with the said direction, recorded the respondent's statement. However, the respondent did not pursue the matter further and subsequently filed a contempt application against the SHO. The SHO, after conducting an inquiry into the matter, submitted a comprehensive report, whereafter the respondent withdrew his contempt application on the premise that he would approach the SHO of Police Station Clifton.

4. Learned counsel further submits that in May 2024, Respondent No. 1 instituted Civil Suit No. 798 of 2024, to which the applicant responded by filing an application under Order VII Rule 11 of the Code of Civil Procedure, as well as under Section 5 of the Companies Act, 2017. The said plaint, however, was returned by the learned court for lack of jurisdiction. It is asserted that the respondent alleges the applicant, in his capacity as Sales Manager, caused a financial loss of Rs. 3.2 million to the company through certain sales transactions, for which the applicant was allegedly liable. The respondent, thereafter, forcibly took possession of the applicant's vehicle and recovered the aforementioned amount. The applicant subsequently resigned from his employment, but was arrested the following year on allegations that he had supplied goods to registered customers of the company and was thus liable to make payment.

5. It is further submitted that, under coercion, the respondent obtained a cheque from the applicant as purported security, and thereafter instituted a suit for return and cancellation of the said cheque. It is noteworthy that the respondent presented the said cheque after the institution of the suit. The learned counsel contends that the cheque was never dishonoured, and the liability in respect thereof stands discharged by the applicant.

6. Conversely, learned counsel for Respondent No. 1 contends that the applicant was appointed as Area Sales Manager on 11.11.2021 and was entrusted with the responsibility of supplying and transporting Cable Wires, General Wire Cables, Medium Voltage Cables, Overhead Conductor Heaters, Control Cables, Telephone Cables, and Fire Alarm Cables to various dealers, in accordance with the standard operating procedures, rules, and policies of the company. However, the applicant allegedly engaged in malpractice, fraud, and deceit by misappropriating company goods. It is alleged that he manipulated forged and fabricated invoices, vouchers, and receipts, and falsely documented such receipts at the company's warehouse. Thereafter, through the use of a dummy driver, he is said to have unlawfully removed various types of cables from the warehouse and sold them to multiple dealers, thereby receiving substantial sums of money for his personal benefit.

7. Learned counsel for the respondent further submits that the applicant deceitfully maintained the company's voucher records in such a manner as to reflect that the amounts were still outstanding from customers, falsely representing that the goods had been supplied on credit and that the corresponding payments would be deposited later upon recovery from the said customers.

8. It is submitted that on 14.12.2023, the company's audit team conducted a detailed audit and, on 16.12.2023, summoned the Warehouse Incharge, Mr. Bilal Shaikh, who admitted before the audit team that the applicant had misappropriated approximately Rs. 250 million during the period from 2022 to 2023. Furthermore, it is asserted that on 19.12.2023, the respondent summoned the applicant and confronted him with documentary evidence of the alleged fraud. The applicant is said to have voluntarily confessed to his misconduct, admitted his liability, and agreed to repay the entire misappropriated amount. In this regard, he executed an *Iqrarnama* and issued Cheque No. 11411688 dated 19.12.2023 in the sum of Rs. 11,117,629/- (Rupees Eleven Million One Hundred Seventeen Thousand Six Hundred Twenty-Nine Only) in favor of the respondent. However, upon presentation, the said cheque was dishonored by the bank. It is further contended that the applicant subsequently deposited a partial amount of Rs. 3,200,000/- into the bank account of Respondent No. 1 towards the outstanding liability and gave assurances that the remaining amount would be repaid in due course. Nevertheless, on 23.05.2024, when the respondent again requested the applicant to make payment against the dishonored cheque and the remaining dues, the applicant allegedly extended threats of dire consequences and unequivocally refused to make any further payment.

9. Learned counsel for Respondent No. 1, in view of the above submissions, prays for the dismissal of the instant Criminal Miscellaneous Application. The learned Deputy Prosecutor General has supported the impugned orders.

10. Heard and perused the record.

11. The case of Respondent No.1 is that the applicant/proposed accused was appointed as Area Sales

Manager on 11.11.2021 and was entrusted with the responsibility of supplying and transporting Cable Wires, General Wire Cables, Medium Voltage Cables, Overhead Conductor Heaters, Control Cables, Telephone Cables, and Fire Alarm Cables to various dealers in accordance with the Standard Operating Procedures, rules, and protocols of the company. However, the applicant allegedly indulged in fraudulent practices, malfeasance, and deceit by unlawfully selling the company's cable products. It is further alleged that he fabricated and manipulated forged invoices, vouchers, and receipts, presented false documentation to the company's warehouse, and through the use of a dummy driver unauthorizedly removed various types of cables from the warehouse, which he subsequently sold to different dealers, collecting substantial amounts in return.

12. As a result of these actions, the applicant is alleged to have misappropriated a total sum of approximately Rs. 250 million. On 19.12.2023, Respondent No. 1 confronted the applicant with evidence of the alleged fraudulent activities. The applicant purportedly admitted his guilt, voluntarily confessed to the misappropriation, and agreed to return the entire misappropriated amount. In this context, he executed an *Iqrarnama* and issued Cheque No. 11411688 dated 19.12.2023 in the amount of Rs.11,117,629/- (Rupees Eleven Million One Hundred Seventeen Thousand Six Hundred Twenty-Nine only) in favor of Respondent No. 1. However, upon presentation, the said cheque was dishonored by the bank.

13. Subsequently, the applicant deposited a partial sum of Rs. 3,200,000/- into the bank account of Respondent No. 1 toward the outstanding liability and assured that the remaining amount would be paid shortly. Nevertheless, on 23.05.2024, when Respondent No. 1 again approached the

applicant for the amount due under the dishonored cheque as well as the balance amount, the applicant allegedly issued threats of dire consequences and categorically refused to repay the outstanding dues.

14. It is an admitted position that under Section 22-A of the Code of Criminal Procedure (Cr.P.C.), it is not within the domain of the learned Justice of Peace to meticulously scrutinize the facts of a case or to render findings on its merits. The primary function of the Justice of Peace, under the said provision, is to ascertain whether the facts narrated in the application disclose the commission of a cognizable offence. If such a disclosure is evident, the Justice of Peace is empowered to issue directions for the recording of the complainant's statement under Section 154, Cr.P.C.

15. The powers vested in the Justice of Peace are thus limited in nature and are intended solely to aid and facilitate the administration of the criminal justice system. The Justice of Peace does not possess the authority to assume the role of an investigative agency or that of a prosecuting authority. Rather, the role assigned is that of oversight to provide redress to complainants whose requests for the registration of an FIR have been unjustly declined by police officials. If a Justice of Peace were to undertake a detailed inquiry or a comprehensive investigation prior to the registration of an FIR, it would effectively compel every aggrieved individual to first approach the Justice of Peace for a preliminary determination of their complaint, and only upon such clearance would an FIR be registered. Such a practice is neither envisaged nor supported by the legislative intent and is contrary to the scheme of the Cr.P.C.

16. The minute scrutiny of factual matters and the conduct of a fact-finding exercise are not contemplated within the

scope of functions assigned to a Justice of Peace. Rather, the Justice of Peace is entrusted with the responsibility to ensure that the legal rights of complainants whose complaints have not been entertained by the police are safeguarded. It is pertinent to note that the Cr.P.C. categorizes offences into two classes: cognizable and non-cognizable. Section 154 of the Cr.P.C. prescribes the procedure for the lodging of information regarding a cognizable offence with the Station House Officer (SHO), whereas Section 155(1) of the Cr.P.C. provides the procedure applicable to non-cognizable offences. Importantly, there is no provision either in the Code of Criminal Procedure or any other prevailing law that permits an SHO to refuse to register an FIR, provided that the information brought to his knowledge prima facie discloses the commission of a cognizable offence. The only legal requirement is that the conveyed information must reveal the commission of such an offence to warrant registration under Section 154, Cr.P.C.

17. In light of the foregoing discussion, the instant Criminal Miscellaneous Application was **dismissed** vide short order dated **09.04.2025**. However, the Station House Officer (SHO), Police Station Boat Basin, Karachi-South, is directed to record the statement of Respondent No. 1/Complainant, and if the information disclosed therein constitutes a cognizable offence, the same shall be reduced into writing and incorporated in the relevant register maintained under Section 154, Cr.P.C.

18. These are the reasons in support of my short order dated 09.04.2025.

JUDGE

Hyder/PA