

IN THE HIGH COURT OF SINDH AT KARACHI
CP. No. S--1374 of 2024
(*Muhammad Nadeem v SSP Karachi East & others*)

Date	Order with signature of Judge
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Date of hearing and Order: 07.04.2025

Mr. Nafees Alam Siddiqui advocate for the Petitioner.
Mr. Muhammad Safdar advocate for respondent Nos. 3,5,6 and 8
Mr. Qamaruddin Nohri DPG

ORDER

Adnan-ul-Karim Memon, J: Petitioner prays that this Court be pleased to direct the implementation of the Trial Court's Order dated February 10, 2024, and command Respondents No. 1 and 2 (the SHO and SSP East) to forthwith register the FIR based on the Petitioner's statement recorded under Section 154 Cr.P.C. on March 18, 2024. Initiate stringent legal proceedings against the police officers implicated in demanding bribes and obstructing the administration of justice. Issue a prohibitory order restraining Respondents No. 3 to 8 from engaging in any further fraudulent activities and from subjecting the Petitioner to any further harassment.

2. The Petitioner under a mutual compromise agreement dated April 20, 2023, Respondents No. 3 to 8 (Judgment Debtors in Execution Petition No. 13/2003) provided three cheques totaling PKR 55,000,000/- (Five Crore Fifty Lac Rupees) to settle the court decree. The cheque details are: Cheque No. 08438357, amounting to PKR 15,000,000/- (One Crore Fifty Lac Rupees), drawn on UBL Bank, Unique Classic Branch, Gulistan-e-Jauhar, Karachi. Cheque No. 10237764, amounting to PKR 20,000,000/- (Two Crore Rupees), drawn on Bank Al-Habib. Cheque No. 12344280, amounting to PKR 20,000,000/- (Two Crore Rupees), drawn on Bank Islami. All cheques were issued in the Petitioner's name. Upon depositing the cheques for clearance, they were dishonored due to account closure or insufficient funds. Respondents No. 3 to 8, directly and through politically influential associates, are harassing, blackmailing, and pressuring the Petitioner. There is a serious apprehension that they will attempt to claim the Petitioner's property or file false cases, applications, or frivolous FIRs against the Petitioner. The concerned respondents have been duly informed of this apprehension. In light of these circumstances, the Petitioner submitted applications to the Station House Officer (SHO) of P.S. Shahrah-e-Faisal and the Senior Superintendent of Police (SSP) East, but no action was taken. Due to the inaction of the aforementioned authorities, the Petitioner filed an application under Section 22-A & B of the Criminal Procedure Code (Cr.P.C.) before the learned Trial Court/XIVth Additional District and Sessions Judge East at Karachi, which was subsequently transferred. On February 10, 2024, the learned XIVth Additional District Judge (ADJ) East passed a lawful order in CrI. Misc. Appl. No. 263/2024, directing the

Petitioner to record his statement under Section 154 Cr.P.C. at the police station and instructing the SHO to register an FIR against Respondents No. 3 to 8 based on this statement. Following the court's order, the Petitioner visited the police station but faced significant obstacles, including repeated and unnecessary summons by police officers who themselves were often absent. Eventually, on March 18, 2024, at 10:00 PM, SIP Ansar-ul-Haq and Raheel Rathore recorded the Petitioner's statement under Section 154 Cr.P.C. However, they also demanded a substantial bribe, a recording of which is in the Petitioner's possession. Despite recording the statement under Section 154 Cr.P.C., no FIR was registered. The Petitioner was repeatedly and unnecessarily summoned to the police station. Furthermore, the Petitioner filed applications before the learned XIVth ADJ East on February 24 and February 26, 2024, requesting the implementation of the court's order dated February 10, 2024, and highlighting that instead of registering an FIR, the accused were being called to the police station, and false actions were being planned against the Petitioner. Despite these facts, no FIR has been registered against Respondents Nos 3 to 8. The failure to lodge the FIR, even after recording the Petitioner's statement under Section 154 Cr.P.C., is attributed to the Petitioner's refusal to pay the demanded bribe. Subsequently, the Petitioner, on legal advice, filed an application under Section 22-A(6) Cr.P.C. However, the learned trial Court Judge has not passed any order on this application since March 2, 2024. Furthermore, despite numerous attempts to obtain certified copies of previous court orders, applications, and diary sheets, the trial Court has intentionally withheld these documents, leaving the Petitioner with no alternative but to file this Constitutional Petition before this Court. The Petitioner has submitted applications to various authorities on different dates, including the District and Sessions Judge East (March 28, 2024), the MIT High Court (April 14, 2024), the Inspector General of Sindh (March 29, 2024), SSP East (March 29, 2024), the Anti-Corruption Incharge (March 29, 2024), and the SHO Shahrah-e-Faisal (March 29, 2024), detailing the injustice and the demand for bribes by police officers. However, no action has been taken. On April 17, 2024, the Petitioner submitted another application before the Honorable XIVth ADJ East regarding the non-implementation of the court's order and the non-registration of the FIR despite the recorded statement under Section 154 Cr.P.C. The application also highlighted the deliberate delay by corrupt officers due to the non-payment of bribes. No action has been taken on this application to date, leaving the Petitioner with no other option than to seek relief from this Court. Respondents No. 3 to 8 are cunning and possess significant political influence. Evidencing this, on March 4, 2023, they submitted three cheques in the Petitioner's name (Muhammad Nadeem) before the trial court in Execution No. 13/2003. Subsequently, an additional three cheques were issued by Respondent No. 7 (General Attorney for the other respondents, with their consent and permission): Cheque No. 00063740, dated March 25, 2023, amounting to PKR 10,000,000/- (One Crore Rupees).

Cheque No. 00063741, dated April 15, 2023, amounting to PKR 5,000,000/- (Fifty Lac Rupees). Cheque No. 00063742, dated May 3, 2023, amounting to PKR 5,000,000/- (Fifty Lac Rupees). All three cheques, totaling PKR 20,000,000/- (Two Crore Rupees), were drawn on MCB Islamic Bank Ltd, Javed Arcade Branch, Gulistan-e-Jauhar, Karachi, Account No. PK93 MCIB 1321 0035 3197 0001, in the name of Muhammad Yahya Siddiqui. However, they later filed a false FIR No. 114/2023, alleging the theft of these cheques. This act of forgery not only defamed the Petitioner but also made false allegations against the Honorable Court. Subsequently, the Respondents No. 3 to 8 reconciled with the Petitioner as per the Compromise Statement dated May 5, 2023, before the District and Sessions Judge East, and issued four new cheques in compliance with the Mutual Compromise Agreements dated April 20, 2023, and June 26, 2023. (Copies of the Application dated March 4, 2023, the three cheques totaling PKR 20,000,000/-, the False FIR No. 114/2023, the Compromise Statement dated May 5, 2023, and the Application dated April 27, 2024, are attached as Annexures "P/26" to "P/30"). Given the fraudulent behavior of Respondents No. 3 to 8, the Petitioner submitted an application to the District and Sessions Judge East on April 27, 2023. (A copy of this application is attached as Annexure "P/31"). Regarding the recovery of PKR 55,000,000/- (Five Crore Fifty Lac Rupees) as per the Mutual Compromise Agreements dated April 20, 2023, and June 26, 2023, the Petitioner has filed Summary Suit No. 92/2024 and Summary Suit No. 103/2024, both currently pending before the District Court. It is important to note that Respondent No. 7, acting as the General Attorney for Respondents No. 2, 3, 4, 5, and 6 as per the General Power of Attorney dated April 27, 2017, submitted an Application under Order XV Rule 2 read with Order XV-A Rule 1 read with Order XII Rule 6 of the Civil Procedure Code (CPC) on May 31, 2024, in the trial court. In this application, Respondent No. 7 accepted the Petitioner's claims and highlighted the dishonesty of Respondents No. 2, 3, 4, 5, 6, and 8. Specifically, in the main paragraph of the application, it was stated that even if the Petitioner's claims and the produced agreements are accepted as true, and referring to the decree passed in favor of the Petitioner and the cheques issued pursuant to it, Respondent No. 7 acknowledged the authenticity of the Petitioner's claims and the agreements/cheques issued by all other respondents. This admission by Respondent No. 7 under Order XII Rule 6 CPC proves the authenticity of the Petitioner's suits. Furthermore, the application pointed out the dishonesty of Respondents No. 2, 3, 4, 5, 6, and 8 in reneging on the compromise agreement and the cheque payments. It also contradicted the claim of Respondent No. 7 having no adjudicable issue against him, given his involvement in the signed agreements. In light of this admission and relevant case law under Order XII Rule 6 CPC [(i) 1990 CLC Page No. 1609, (ii) PLD 1993 Karachi Page No. 550, (iii) 1986 Quetta PLJ Page No. 135], the Petitioner contends that the dishonesty and malafide of Respondents No. 3 to 8 regarding the mutual compromise agreements

and issued cheques are fully established. Therefore, this Honorable Court is requested to direct the relevant official respondents to lodge an FIR under the appropriate sections of the PPC for fraudulent activities.

3. Learned counsel for the petitioner submitted that the learned XIVth Additional District Judge East issued a lawful order on February 10, 2024, mandating the SHO to register an FIR based on the Petitioner's statement under Section 154 Cr.P.C. The SHO's failure to implement this explicit judicial directive constitutes a direct infringement upon the Petitioner's fundamental rights as enshrined in Articles 4, 9, and 10-A of the Constitution. Despite recording the Petitioner's statement under Section 154 Cr.P.C. on March 18, 2024, the police have unlawfully refused to register the FIR. This inaction contravenes the mandatory provisions of Section 154 Cr.P.C., which imposes a clear legal obligation to register an FIR upon the reporting of cognizable offenses. The demand for a bribe by police officers, including SIP Ansar-ul-Haq and Raheel Rathore, as a prerequisite for registering the FIR, is a blatant abuse of power and a criminal act, violating the principle of equality before the law guaranteed under Article 25 of the Constitution. The police have engaged in unwarranted and repeated summoning of the Petitioner and have deliberately delayed the execution of the court's order. This malfeasance has inflicted mental anguish and constitutes harassment, thereby undermining the Petitioner's constitutionally protected dignity under Article 14. The Petitioner's repeated applications to the Trial Court and higher authorities have yielded no action or relief, demonstrating a failure of the justice system. This protracted delay and inaction violate the principles of natural justice and the Petitioner's fundamental right to access justice as guaranteed by Article 10-A of the Constitution. The lack of response to repeated complaints lodged with higher authorities, including the District and Sessions Judge, Inspector General of Sindh, SSP East, and the Anti-Corruption Incharge, underscores systemic negligence and necessitates the urgent intervention of this Honorable Court to secure justice for the Petitioner. Respondents No. 3 to 8 have acted with demonstrable malice and deceit, leveraging their political influence to obstruct the due course of justice. Their fraudulent activities, including the issuance of dishonored cheques, the filing of baseless FIRs, and the deliberate obstruction of lawful processes, have severely prejudiced the Petitioner's legal rights. The Petitioner has diligently exhausted all available legal and administrative remedies by filing applications before the Trial Court, higher police officials, and relevant administrative bodies. Despite these exhaustive efforts, no effective action has been taken, compelling the Petitioner to seek the extraordinary jurisdiction of this Honorable Court under Article 199 of the Constitution. The Petitioner's fundamental rights to life, liberty, dignity, and access to justice, as guaranteed under Articles 4, 9, 10-A, and 14 of the Constitution, are being actively violated by the aforementioned actions and

omissions. This petition is filed to seek the immediate enforcement of these fundamental rights. The police's recalcitrance in complying with lawful judicial orders and their involvement in corrupt practices necessitate the immediate oversight of this Honorable Court. Judicial intervention is crucial to prevent further abuse of authority and to ensure that public officials discharge their statutory duties per the law.

4. The private respondents have refuted the claims of the petitioner and submitted that no cognizable offense was made out as such there is no need to lodge FIR against the private respondents as the petitioner has alternative remedy under Section 200 Cr.PC. He further submitted the documents attached with the memo of petition are managed one and based on fraudulent intent as such cannot be considered for just decision of the case. Learned counsel further submitted that petitioner has forged the signature of Najma Begum on the cheques just to pressurize and blackmail her, as such the matter of civil nature needs to be resolved by the civil court rather than decision be made under Article 199 of the Constitution. So far as implementation of the order of the trial court is concerned, petitioner has remedy under the law, however, he added that from the statement of the petitioner, no cognizable offence was committed, as such the police have rightly refused to lodge FIR against the private respondents in terms of civil nature of the case between the parties and pendency of the summary suit No. 103 of 2024.

5. I have heard the learned counsel for the parties and perused the record with their assistance.

6. This matter is hereby referred to the relevant Deputy Inspector General of Police (DIGP East). The DIGP shall hear both parties and, if a cognizable offense is found, shall direct the concerned Station House Officer (SHO) to record the complainant's statement, not earlier recorded, for further legal action. This entire process must be completed within one week of summoning the parties.

7. This petition is now disposed of under these terms.

JUDGE