

**IN THE HIGH COURT OF SINDH AT KARACHI**  
**Crl. Revision Application No.226 of 2024**

**Before:**  
**Justice Zafar Ahmed Rajput**  
**Justice Tasneem Sultana**

Applicant	:	Salman Hassan Khan s/o Irfan Hassan Khan, through Ms. Naheed A. Shahid, Advocate.
Respondent No.1.	:	The State, through Mr. Khaleeq Ahmed, Deputy Attorney General ( <b>DAG</b> ).
Respondent No.2	:	Fahad Butt s/o Abdul Nacem Butt, through Mr. Rehman Aziz Malik, Advocate.
Date of hearing	:	<b>22.05.2025</b>
Date of order	:	<b><u>22.05.2025</u></b>

**ORDER**

**ZAFAR AHMED RAJPUT, J.** This Criminal Revision Application, under section 439 of the Criminal Procedure Code, 1898 (**Code**), is directed against the order dated 26.11.2024 passed in Case No.11 of 2024, arisen out of Crime No.5/2024, registered at P.S. FIA CBC Karachi, under sections 409, 420, 468, 471, 477-A, 109/34, P.P.C. whereby the learned Special Court (Offences in Banks) Sindh at Karachi (**Special Court**) dismissed an application filed by the applicant under section 265-C, read with section 241-A of the Code by observing, as under:-

*“Section 241-A Cr.P.C. provides following documents to be supplied to the accused persons free of cost. Copy of statements of all witnesses recorded u/s 161 Cr.P.C., u/s 164 Cr.P.C. and inspection note recorded by the I.O. of first visit on place of occurrence shall be supplied free of cost to the accused.*

*As per proviso attached with Section 241-A Cr.P.C. a liberty has been given to the prosecution that if any part of a statement recorded u/s 161 Cr.P.C., is such that its disclosure to the accused would be inexpedient in the public interest such part of statement shall be excluded from copy of statement furnished to the accused. Learned AD Legal for the State has*

*taken the refuge of above proviso and stated that supply of bank statements at this stage may be fatal to the prosecution case therefore, same were not supplied.*

*I find myself agreed with the contention of learned SPP/AD Legal FIA that no restriction can be placed upon his right regarding any document which he withheld for supplying to the accused persons considering that such disclosure would not be in the interest of prosecution case however, such liberty would be available to the accused persons to obtain certified copy of documents if produced during the course of evidence of the witnesses. At this stage, request for supply of such bank statements other than those already provided in Section 241-A Cr.P.C. is not warranted. All accused have been supplied copies of statements of witnesses and their inspection memos against which receipt was obtained.”*

**2.** Learned counsel for the applicant contends that non-supply of the statements and documents to accused prior to framing of the charge will vitiate the whole trial and the applicant without having recourse to the record would not be in a position to set up his defence; hence, the Special Court has to ensure compliance of requirement of section 241-A of the Code; that since the impugned order causes prejudice to the right of the applicant, it is not sustainable in law. In support of her contentions, learned counsel has relied on the case of *Muhammad Safdar v. Presiding Officer Accountability Court No. IV Karachi and 4 others* (**2020 P Cr. L J 683**), *Nadeem Ahmed Khan and others v. The State* (**2007 P Cr. L J 233**) and *Government of Sindh through Advocate general of Sindh v. Fahad Naseem and 3 others* (**2002 P Cr. L J 1765**)

**3.** Conversely, learned DAG and learned counsel for respondent No.2 maintain that the Special Court follows the procedure prescribed by the Code for the trial of the case by Magistrate as

provided under sub-section (8) of section 5 of the Offences in Respect of Banks (Special Courts) Ordinance, 1984 (**Ordinance**); hence, it is not section 265-C but section 241-A of the Code, which is applicable in the instant case, which provides supplying of the statements of prosecution witnesses recorded under Sections 161 and 164 of the Code and memo of inspection prepared by the investigation officer; that besides these documents, providing other documents would be inexpedient in the public interest before recording evidence of the prosecution witnesses; therefore, the Special Court has rightly observed that the same would be available to the applicant to obtain certified copies thereof if produced by the prosecution witnesses in their evidence.

4. Heard, record perused.

5. For the sake of convenience, section 241-A of the Code is reproduced, as under: -

**[241-A. Supply of statements and documents to the accused:** (1) *In all cases instituted upon police report, except those tried summarily or punishable with fine or imprisonment not exceeding six months, copies of statements of all witnesses recorded under sections 161 and 164 and of the inspection note recorded by an investigating officer on his first visit to the place of occurrence, shall be supplied free of cost to the accused not less than seven days before the commencement of the trial:*

*Provided that, if any part of the statement recorded under Section 161 is such that its disclosure to the accused would be inexpedient in the public interest, such part of the statement shall be excluded from the copy of the statement furnished to the accused.*

*(2) In all cases instituted upon a complaint in writing, the complainant shall—*

*(a) state in the petition of complaint the substance of the accusation, the names of his witnesses and the gist of the evidence which he is likely to adduce at the trial; and*

*(b) within three days of the order of the Court under Section 204 for issue of process to the accused, file in the Court for supply to the accused, as many copies of the complaint and any other document which he has filed with his complaint as the number of the accused:*

*Provided that the provisions of this sub-section shall not apply in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in discharge of his official duties. (Emphasis supplied).*

**6.** There is no denial to the preposition that under sub-section (8) of section 5 of the Ordinance, a Special Court follows the procedure prescribed by the Code for the trial of the cases by Magistrate; as such, a Special Court under sub-section (1) of section 241-A of the Code is required to supply in all cases instituted upon police report, except those tried summarily or punishable with fine or imprisonment not exceeding six months, copies of statements of all witnesses recorded under sections 161 and 164 of the Code and the inspection note recorded by an investigation officer on his visit to the place of occurrence. The proviso to sub-section (1) *ibid*, however, provides that if any part of the statement recorded under Section 161 is such that its disclosure to the accused would be inexpedient in the public interest, such part of the statement shall be excluded from the copy of the statement furnished to the accused. The phrase “*part of the statement*” implies the documents collected by the investigation officer and referred to in the statements of the witnesses, which are also be supplied to the accused, provided that disclosure thereof would be inexpedient in the public interest; in such case the same shall be excluded from the copy of the statement furnished to the accused.

**7.** The term “all witnesses” occurring in section 241-A (*ibid*) does not mean only witnesses called for prosecution. Accused is entitled as a matter of right to get copies of all statements of the witnesses examined by the investigation officer though not cited as prosecution witnesses. Non providing of such documents would adversely impact his fundamental right to have a fair trial as enshrined in Article 10A of the Constitution of Islamic Republic of Pakistan, 1973.

**8.** In the case in hand, it is an admitted position that none of the documents collected by the investigation officer under a memorandum and/or referred to in the statements of witnesses has been declared as “classified document” nor the learned DAG could be able to make any reference regarding the documents, disclosure thereof to the applicant or any of the co-accused would be inexpedient in the public interest, as the case in hand carries no issue of “public importance or public interest”. It is, as alleged in charge-sheet, simpliciter a case of embezzlement of amount by the accused/bank employees in multiple bank accounts of the customer through various banking instruments, *inter alia*, by making fake and forged signatures and committing criminal breach of trust, fraud, forgery and abetment. The documents secured by the investigation officer under memorandum and as part of the statement of witnesses are allegedly “forged documents” made by the accused for wrongful gain, which has nothing to do with so-called public interest.

**9.** As regards liberty of an accused to obtain certified copies of documents produced during the course of evidence of the

witnesses, suffice it to say that section 241-A of the Code provides supplying of statements and documents to the accused before commencement of the trial, as a right, free of costs. Section 241-A (*ibid*) does not speak of entitlement of an accused to obtain certified copy of the statements of witnesses and documents or any part thereof. The right of an accused to obtain certified copy of a document with reference to Article 87 of the Qanun-e-Shahadat Order, 1984 is absolutely his distinct right.

**10.** For the forgoing facts and reasons, we allow this Application by directing to Special Court to supply the copies of all the statements of witnesses with parts and inspection notes to applicant/accused free of cost before framing of charge.

**11.** The instant Crl. Revision Application stands disposed of alongwith pending application.

JUDGE JUDGE