THE HIGH COURT OF SINDH, CIRCUIT COURT, AT HYDERABAD.

Before:
Mr. Justice Miran Muhammad Shah.

Criminal Revision Application No.S-07 of 2025

Applicant	:	Iftikhar Abbas Shah son of Syed Rasheedullah Shah. Through Mr. Jawad Ahmed Qureshi, advocate.
Respondents	:	The State. Through Ms. Shamim Mughal, A.A.G, Pakistan.
Date of hearing	:	**21.05.2025.**
Date of Judgment	:	**23.07.2025.**

O_R_D_E_R.

Miran Muhammad Shah, J:- Through this Criminal Revision Application, the applicant being aggrieved and dissatisfied with the impugned order dated 05.11.2024, has challenged the said order. Such order was passed by the learned IIIrd Additional Sessions Judge/Tribunal at Shaheed Benazirabad, in FIR No.11 of 2023, of police station FIA Composite Circle, Shaheed Benazirabad pertaining to the offence under Section 4(1) and 23 of the Foreign Exchange Regulation Act, 1947 (Amended in 2020) read with section 109 PPC. This case was put up as Sessions Case No.1156 of 2023 titled 'The State Versus Faisal Sikandar Dehrj and others', whereby the learned IIIrd Additional Sessions Judge/Tribunal at Shaheed Benazirabad dismissed an application under Section 249-A Cr.P.C, hence, the instant Criminal Revision Application is hereby filed.

2. The brief facts of the prosecution case, as per the FIR and charge sheet are that the case was registered by the complainant SIP Suhail Ahmed, upon authorization from the Director of FIA, Sindh Zone-II, Hyderabad, via letter dated 26.06.2023, an enquiry No. 04/2023, initiated by the FIA Composite Circle, Shaheed Benazirabad. The enquiry originated from a Strategic Analysis Report by the Financial Monitoring Unit (FMU) concerning risks associated with USD exchange rates based on reported Suspicious Transaction Reports (STRs) and Currency Transaction Reports (CTRs). The enquiry revealed that the accused Iftikhar Abbas Shah had deposited substantial sums in USD into his Al-Baraka Bank account, Tando Adam branch, on several dates. These deposits, totaling $15,000/-, $20,000/- and $34,500/-

were made in 2021 into his USD Savings Account, which he had opened on 10.09.2020. It was further discovered that the accused Iftikhar Abbas Shah had purchased approximately $109,500/- from various money exchange companies. Out of this amount, he sold $75,500/- to the co-accused Faisal Sikandar Dehraj, a private individual unauthorized to conduct foreign exchange transactions. The accused Faisal Sikandar deposited the purchased USD in his account at Bank Al Falah, Nawabshah; and subsequently transferred those funds to an account in the USA. The investigation identified Muhammad Rizwan, Branch Manager of Bank Al-Falah, Nawabshah, and Mansoor Iqbal, Branch Operations Manager, as potentially Complicit. The accused Mansoor Iqbal authorized USD deposits made by Faisal Sikandar, despite these transactions not being supported by official receipts from authorized dealers, as required under the foreign currency deposit policies of the State Bank of Pakistan (SBP). Instead, accused Iftikhar Abbas provided Faisal Sikander with undertakings as proof of their USD transactions. The charge sheet notes that these transactions, being unauthorized and not compliant with the Foreign Exchange Regulation Act, 1947, (amended in 2020) could adversely impact currency stability and the economy of Pakistan. Based on these findings, a case has been made out under sections 4(1) and 23 of the Act, read with section 109, PPC, against the accused persons namely Intikhar Abbas son of Rasheed Ullah Shah, Faisal Sikandar son of Sikandar All Dehraj and Mansoor Iqbal son of Iqbal Ahmed.

3. The learned counsel for the applicant submits that the learned trial court has committed illegality on only relying upon the point raised by the respondent but miserably failed to consider the point of the applicant; that the trial court with great irregularity and illegality dismissed the Application under section 249-A Cr.P.C; that there is no mens rea (criminal intent) in the applicant's actions and no offense is committed under Section 4(1) and 23, of the Foreign Exchange Regulation Act, 1947 (as amended Act-2020), read with section 109 PPC; that at no time did the applicant intended to sell USD to the public at large. The applicant sold the dollars (USD) through bank transactions, which were duly declared in his income tax returns; that the applicant merely transferred money to a friend, who was traveling abroad, and at no material time carried out any business with the public at large. The

applicant neither advertised nor opened any office for selling foreign currency, thus his actions do not fall within the mischief contemplated by the law; that the applicant had lawfully opened USD accounts under the relevant provisions of the Foreign Exchange Regulation Act and the rules framed by the State Bank of Pakistan (SBP), having fulfilling all legal formalities; that the amounts deposited in the applicant's bank account were duly declared in his income tax filings, and no objections was ever raised by any competent authority; that under Section 4 of the Protection of Economic Reforms Act, 1992, the applicant had the right to hold and transfer foreign exchange within or outside Pakistan; that the transactions were carried out through authorized banking channels, and the applicant never engaged in the sale of USD in his personal capacity or through cash, hence the FIR has been malafidely lodged; that the State Bank of Pakistan has granted general permission to filers for depositing their foreign currency through their FCY accounts. The applicant, being a filer, fulfilled all requirements, and the relevant amounts were lawfully deposited and declared; that during a detailed inquiry initiated by the FIA under Anti-Money Laundering and counter-financing of terrorism (AML/CFT) frameworks, it was established by the FIA itself that the applicant's properties and USD accounts were within legal parameters and entirely legitimate; that the inquiry further found that no ill-gotten money or proceeds of crime were involved and based on these findings, the Deputy Director (Crime) FIA recommended closer of the inquiry against the applicant; that the alleged transactions between the applicant and the co-accused were conducted in accordance with banking procedures and legal requirements. The applicant submitted sale-purchase undertakings to the bank, which complied with the Foreign Exchange Regulation Act, 1947; that the banking transactions in question were never declared illegal by the State Bank of Pakistan, as they followed all prescribed SOPs; that the applicant deposited the USD in his bank account, which demonstrated his bona fide intention to comply with the legal requirements. Furthermore, the source of funds (agricultural income) was declared and reflected in his income tax returns; that even under the circular issued by the SBP in December 2001, the applicant provided bona fide reasons for the transactions along with

supporting documentation, ensuring full compliance with applicable law; that the applicant's transactions were in line with the SBP's policy objectives, which encourage digital banking and reducing reliance on cash transactions; that the government's primary objective in regulating foreign exchange transactions is to ensure transparency in the inflows and outflows of funds. The applicant has consistently declared all amounts and maintained lawful compliance and therefore, the competent authorities had full knowledge of the transaction; that the alleged offense relates primarily to the purchase of USD, however, the applicant disclosed and documented all such transaction, thereby defeating any ground for criminal charges; that the alleged charges against the applicant are thus groundless as the transactions were lawful, transparent, and fully documented; that the applicant's adhered to the prescribed USD deposit limit (per day and annual) demonstrates compliance with the law; that despite all the factors, the trial court failed to take them into consideration and unjustly relied solely upon the prosecution's version while dismissing the application under Section 249-A Cr.P.C.; that it would be unreasonable and unjust to subject the applicant to the ordeal of a full trial when no prima facie case exists against him; that there is no possibility and probability of conviction of the applicant; therefore, putting him through the misery of a trial would serve no useful purpose. Therefore, the impugned order is liable to be set aside in the larger interest of justice.

4. On the other hand, Ms. Shamim Mughal, A.A.G for Pakistan opposed the instant Criminal Revision Application. She argued that the prosecution has presented prima facie evidence in the form of the FMU report, documented transaction records, inquiry findings and statements under Section 161, Cr.P.C. of prosecution witnesses, which indicate substantial USD deposits and transactions by the applicant, without compliance with the Act. Such evidence provides a reasonable foundation for the prosecution's case and warrants a full-fledged trial. Therefore, the charge cannot be considered groundless within the meaning of Section 249-A, Cr.P.C.

5. I have carefully heard the learned counsel for the applicant and learned AAG and perused the material available on record.

6. The arguments raised by the counsel for the applicant, carries substantial weight. The case is of simple nature and such kind of cases when put up before the court of law for trial, is a mockery of a trial and such cases only result in acquittal of the alleged accused. Such trials are a waste of precious time of the courts and only brings pain and agony to the alleged accused and brings his name into disrepute in society at large. Once no law is violated and the transactions of financial nature or otherwise are well within the parameters prescribed by the concerned law, it should not be dealt as a criminal act per say. The record brought before this court show that the transactions of selling and buying of US dollar currency has been done legally through the banking channel. All such transactions have been done through declared income as per the tax returns filed and once the tax returns show the said income being in the bank account received through proper means, such income cannot be considered as illegal. If any transactions are made through such income, whether in local or any foreign currency, cannot be considered an illegality or a criminal act, especially when no other law concerning the foreign currency account has been violated. It has also been brought on the record that the present applicant/accused was let off by the FIA authorities and the board which decides and approves adjudication of such matters had decided for the closure of the case against the present applicant. However despite that another FIR was lodged for the same offense based on the same inquiry. Such is an illegality in law. Once let off from the inquiry based on same charges, trial on the basis of the same inquiry would cause nullity in law and the case would fall within the parameters of "double jeopardy".

7. As per my observations I have come to the conclusion that such sale and purchase which was made between two persons who were neither involved in any sale and purchase of foreign currency with public at large and whose such transactions were not done for any money laundering/terrorism purposes but were transactions done through banking channels duly shown in the tax returns cannot be put up for trial and on the face of it, such trial would not result in any conviction or otherwise. Such proceeding would be a wastage of precious time of the learned courts, which are already overburdened with case workload.

8. Before concluding I would also observe that the provisions of section 265-K Cr.P.C and section 249-A Cr.P.C are to be applied in letter and spirit and as per the ingredients of the provisions. The words such as 'charge being groundless' and non-existence of the possibility of accused being guilty; should be the centre point while deciding the application under Section 249-A Cr.P.C. The merits of the case must be considered in light of the wordings of such provision. For brevity of the case, I produce ~~the~~ section 249-A Cr.P.C. as well as case law in support of my observations.

> "**1249-A Power of Magistrate to acquit accused at any stage**. Nothing in this Chapter shall be deemed to prevent a Magistrate from acquitting an accused at any stage of the case if, after hearing the prosecutor and the accused and for reasons to be recorded, he considers that the ***charge is groundless*** or that there is ***no probability of the accused being convicted*** of any offence."

In support of my observations, I rely upon the case law 2024 P.Cr.L.J 223, which is reproduced as under:-

> **"Court was also to weigh the possibility that prosecution would not be able to prove charge for any offence against the petitioner/accused even if the trial would have been allowed to continue---Present case was one of extraordinary circumstances, hence High Court quashed the proceedings of Trial Court against the petitioner/accused--- Petition moved by the petitioner/accused under S. 561-A of the Cr.P.C, 1898, was allowed, in circumstances."**

9. In light of above observation, I do not agree with the order passed by the learned Additional Sessions Judge-III/Tribunal Shaheed Benazirabad passed on 5.11.2024 by disallowing the application of the present applicant/accused along with the other applicants. I, however, to the extent of present applicant/accused, set aside the above mentioned order and allow the present Criminal Revision Application filed under sections 435 and 439 Cr.P.C read with section 561-A Cr.P.C allow the applicant's application for acquittal under section 249-A Cr.P.C and acquit the applicant from all charges.

JUDGE