

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Misc. Application No.S-239 of 2026

(Bakhat Ali Bhatti Vs The State & others)

Date	Order with signature of Judge
1.	For orders on office objection.
2.	For hearing of main case.

Date of hearing and order:- 29-06-2026.

Mr. Riaz Hussain Khaskheli, Advocate for applicant
Mr. Ghulam Murtaza Siyal, Advocate for proposed accused.
Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General.
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ORDER.

Adnan-ul-Karim Memon, J:- The applicant through the instant Crl. Misc. Application seeks direction for SHO Police Station Khuhra to register the FIR against the proposed accused and also prays to conduct a fair investigation.

2. Learned counsel for the applicant submits that the applicant, is farmer, had entered into a lawful transaction of sale of a buffalo with the proposed accused Muhammad Ahmed and Ali Murad Jakhar on 02.11.2025 for a total consideration of Rs. 515,000/-, out of which Rs. 100,000/- was paid in cash and the remaining amount was secured through cheque No. 00010160 dated 10.01.2026 drawn on HBL, Mall Road Branch, Khairpur. It is further submitted that when the said cheque was presented for encashment, the same was dishonoured on the ground of “stop payment by drawer”, which clearly reflects the dishonest and mala fide intention of the proposed accused persons from the very inception of the transaction. He added that despite repeated requests and assurances, the accused failed to honour their commitment, compelling the applicant to approach the police for registration of FIR; however, the SHO, under the influence of the accused, did not lodge the FIR. It is argued that the applicant also approached the higher authorities, but no action was taken, whereafter he filed Cr. Misc. Application No.1120/2026 under Sections 22-A & 22-B Cr.P.C. before the learned Justice of Peace, which was wrongly dismissed vide order dated 31.03.2026 on the sole ground of non-production of sale agreement, whereas the cheque itself constitutes sufficient evidence of the transaction.

Learned counsel contends that the learned Justice of Peace failed to appreciate the material facts and settled principles of law, as the complaint discloses cognizable offences under the PPC and Negotiable Instruments law, and the police report also supports the version of the applicant. He argued that the impugned order is thus illegal, arbitrary, and against the settled principles of justice. In view of the above, it is prayed that the impugned order dated 31.03.2026 be set aside and the SHO concerned be directed to record the statement of the applicant under Section 154 Cr.P.C., register the FIR, and conduct a fair and impartial investigation against the proposed accused persons.

3. Learned counsel for the private respondents submits that the applicant has failed to establish any lawful basis for the alleged transaction, as no sale agreement or documentary proof of the claimed purchase of buffalo for Rs. 515,000/- has been produced on record. It is contended that in the absence of such material, the alleged story set up by the applicant is false and concocted. It is further argued that the cheque in question was not dishonoured due to insufficiency of funds; rather, the bank memo clearly reflects the reason as “payment stopped by drawer”, which does not attract criminal liability and instead indicates a civil dispute between the parties. Reliance is placed on the settled principle of law laid down by the Hon’ble Supreme Court in PLD 2016 SC 581 and 2024 SCMR 985. Learned counsel submits that the applicant has misused the provisions of Sections 22-A & 22-B Cr.P.C. to give a criminal colour to a purely civil liability, and his conduct reflects mala fide intention. It is, therefore, prayed that the impugned order passed by the learned Justice of Peace be maintained, as the application is devoid of merit and has rightly been dismissed. He prayed to dismiss this Application as well.

4. I have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

5. The learned Justice of Peace observed that the applicant, through an application under Sections 22-A & 22-B Cr.P.C., sought directions for recording his statement and registration of FIR against the proposed accused on the allegation of sale of a buffalo for Rs. 515,000/-, part payment of Rs. 100,000/- in cash, and issuance of cheque for the remaining amount. After hearing arguments and examining the record, including the report of the

DSP Complaint Cell, the Court noted that although the applicant alleged a sale transaction, he failed to produce any documentary proof such as a sale agreement to substantiate the alleged deal. The Court further observed that the bank memo dated 10.03.2026 did not reflect dishonour due to insufficiency of funds, but rather showed the reason as “payment stopped by drawer”, which, in the view of the Court, did not support the allegation of a cognizable offence in the manner claimed by the applicant. Relying on the above circumstances and the conduct of the applicant, the Court concluded that the application appeared to be an attempt to misuse the provisions of Sections 22-A & 22-B Cr.P.C. by converting a civil dispute into a criminal case. Accordingly, the application was found to be without merit and was dismissed, with liberty to the applicant to approach the competent civil court for recovery, if so advised.

6. The sole basis of the applicant’s grievance is the issuance of cheque No. 00010160 which was returned by the bank with the remark “payment stopped by drawer.”

7. At the outset, it is well settled that every dishonour of cheque does not ipso facto constitute an offence under Section 489-F PPC. The essential ingredients of Section 489-F PPC are: (i) issuance of a cheque; (ii) issuance with dishonest intent; (iii) the cheque is issued for repayment of a loan or fulfillment of an obligation; and (iv) the cheque is dishonoured on presentation.

8. The expression “dishonoured due to stop payment by drawer” does not automatically exclude Section 489-F PPC; however, the prosecution must still establish the foundational element of dishonest intent at the time of issuance of the cheque. Mere stopping of payment, without clear material indicating fraudulent intention from inception, may fall within the realm of civil liability depending upon the facts of each case.

9. In the present matter, the applicant has asserted a sale transaction of buffalo for Rs. 515,000/-, yet no documentary evidence such as sale agreement, receipt, or contemporaneous written acknowledgment has been produced to prima facie establish the alleged contractual obligation. The only supporting circumstance is the cheque itself, which, in isolation, does not conclusively establish the existence of a legally enforceable liability

in the absence of corroborative material, particularly when the nature of the transaction is disputed.

10. The bank memo reflects “payment stopped by drawer” rather than insufficiency of funds. While stoppage of payment can, in certain circumstances, attract criminal liability under Section 489-F PPC if mala fide intent is established, in the present case the record does not disclose any independent material indicating that at the time of issuance of cheque, the accused had dishonest intention or that the transaction was reduced into a legally enforceable obligation beyond verbal assertions.

11. Moreover, the conduct of the applicant in failing to produce any documentary proof of the alleged sale transaction, despite opportunity, and the nature of allegations raised at the stage of Sections 22-A & 22-B Cr.P.C., supports the view that the dispute essentially revolves around a contested financial transaction requiring adjudication by a competent civil forum rather than immediate criminal process.

12. It is a settled principle of law that criminal proceedings cannot be used as a tool for recovery of disputed civil liability, particularly where foundational ingredients of a cognizable offence are not prima facie established.

13. In view of the above discussion, this Court is of the considered opinion that no sufficient material has been brought on record to justify issuance of directions under Sections 22-A & 22-B Cr.P.C. for registration of FIR, as the essential ingredients of Section 489-F PPC are not prima facie made out at this stage. The learned Justice of Peace has rightly concluded that the matter, at best, gives rise to a civil dispute, and the applicant has been rightly relegated to the remedy before the competent civil court.

14. Accordingly, finding no illegality or jurisdictional defect in the impugned order dated 31.03.2026, the instant criminal miscellaneous application is dismissed, being devoid of merit.

J U D G E