IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Crl. Miscellaneous Application No.S- 701 of 2026

Applicants	**:**	**Ghulam Qadir and Mohib Ali** Through Mr.Abdul Sattar Mahessar , Advocate.
Respondent No.5	**:**	**Hamz Ali** Through Mr. Abdul Hameed Sangi, Advocate
The State & Official Respondent 1 to 4	**:**	Through Mr. Imran Mobeen Khan, Assistant Prosecutor General
Date of Hearing	**:**	**02-11-2026**
Date of Order	**:**	**13-11-2026**

O R D E R

TASNEEM SULTANA, J.— Through the instant Criminal Miscellaneous Application, the applicants Ghulam Qadir and Mohib Ali have invoked the inherent jurisdiction of this Court under Section 561-A, Cr.P.C., for setting aside the order dated 26.09.2026, passed by the learned III-Additional Sessions Judge/Ex-Officio Justice of Peace, Naushahro Feroze, in Criminal Miscellaneous Application No.3275 of 2026, whereby the application moved by respondent No.5 under Sections 22-A and 22-B, Cr.P.C., was allowed and the SHO, Police Station Bhiria Road, was directed to record his statement under Section 154, Cr.P.C., and, if a cognizable offence was disclosed, register his case and proceed in accordance with law.

2. Briefly, respondent No.5 moved an application under Sections 22-A and 22-B, Cr.P.C., alleging that on 05.08.2026, at about 10:00 a.m., he was present at his otaq along with Shoukat Ali and Sadam Babu when the proposed accused purchased four buffaloes and one cow from him for Rs.26,60,000/-. He alleged that Rs.6,00,000/- was paid in cash, a cheque for Rs.20,00,000/- was issued and payment of the remaining amount was promised within a few days. The cattle were taken away in three vehicles, but the cheque, upon presentation, was allegedly returned due to insufficient funds. He further alleged that on 15.09.2026, he and his witnesses visited the otaq of the proposed accused to demand payment, where they were subjected to kicks and fist blows, confined

in a room for two hours and threatened with murder and false implication. According to him, he approached the SHO, Police Station Bhiria Road, along with the cheque and return memorandum, but no action was taken. He, therefore, sought directions for registration of an FIR. His application was allowed through the impugned order, hence the present Criminal Miscellaneous Application.

3. Learned counsel for the applicants contended that the impugned order has been passed without proper consideration of the material available on record; that the learned Ex-Officio Justice of Peace has not considered the actual reason recorded in the bank's return memorandum; that the cheque was returned because the amount in words and figures differed and not because of insufficient funds; that applicant No.1 denies the alleged purchase and asserts that a misplaced cheque was misused; that applicant No.2 has no concern with the alleged transaction and has been implicated merely because he is the brother of applicant No.1; and that the police report regarding his implication has not been considered in the impugned order. He, therefore, prayed that the impugned order be set aside.

4. Conversely, learned Assistant Prosecutor General and learned counsel appearing on behalf of the respondent No.5 supported the impugned order and sought dismissal of the instant application.

5. Heard. Record perused.

6. It appears from the record that the learned Ex-Officio Justice of Peace has principally relied upon the cheque and the accompanying bank memorandum while allowing the application. Respondent No.5 specifically alleges that the cheque was dishonoured due to insufficient funds. The bank memorandum dated 14.09.2026, however, identifies reason No.12, namely, "*Amount in words and figures differs*." The reason relating to insufficient funds is not marked. The impugned order refers to the memorandum but does not examine its contents or reconcile the reason recorded therein with the allegation made by respondent No.5.

7. It further appears that the cheque bears the date 10.04.2026, whereas the transaction against which it was allegedly issued is stated to have taken place

on 05.08.2026. Thus, the cheque predates the alleged purchase of the cattle by almost four months. This inconsistency between respondent No.5's account and the document relied upon by him required consideration but has not been addressed in the impugned order.

8. The record also requires separate consideration of the position of each applicant. The cheque bears the name of applicant No.1, Ghulam Qadir, as the account holder. The police material describes a dispute concerning a livestock transaction between him and respondent No.5, while reporting that applicant No.2, Mohib Ali alias Pyaro, was nominated by exaggerating the facts. Although the impugned order records that the police report was perused, it does not discuss this distinction or the allegations against applicant No.2. The police report is not conclusive of the respective applicants' involvement, but the distinction drawn therein required consideration alongside the allegations made in the application. The allegations of assault, confinement and threats relating to the incident dated 15.09.2026 also required consideration. The impugned order does not address whether these allegations, independently of the cheque transaction, disclosed a cognizable offence.

9. In *Younas Abbas and others v. Additional Sessions Judge, Chakwal and others* (**PLD 2016 SC 581**), the Honourable Supreme Court has explained that the functions performed by an Ex-Officio Justice of Peace under Section 22-A(6), Cr.P.C., are quasi-judicial and require examination of the record, hearing of the parties and exercise of discretion with due application of mind. In *Syed Qamber Ali Shah v. Province of Sindh and others* (**2024 SCMR 1123**), the Honourable Supreme Court has further explained that the Justice of Peace is required to ascertain whether the facts narrated disclose a cognizable offence, without undertaking a detailed inquiry or rendering findings on the merits. The impugned order does not reflect consideration of the material aspects discussed above, which bear upon that determination. It, therefore, cannot be sustained, and the matter requires a fresh decision by the learned Ex-Officio Justice of Peace.

10. In view of the above facts and circumstances, the instant Criminal Miscellaneous Application is allowed. The impugned order dated 26.09.2026 is set aside, and the matter is remanded to the learned III-Additional Sessions

Judge/Ex-Officio Justice of Peace, Naushahro Feroze, to decide the application afresh in accordance with law, after hearing the parties and considering the relevant record, preferably within fifteen days of receipt of this order. The observations made herein shall not prejudice the determination of the application on its merits.

JUDGE

Ahmad/PS