JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

CRIMINAL REVISION NO.77 OF 2025

SOHAIL IQBAL MUGHAL

VS

THE STATE ETC

Petitioner by	**:**	**Raja Ehtisham Ali, Advocate.**
Respondents by	**:**	**Raja Zamir ud Din Ahmed, Assistant Attorney General.** **Mr. Kousar Mehmood and Mr. Wajid Hussain, Assistant Directors, FIA.** **Mr. Shahryar S.I, FIA.**
Date of hearing	**:**	**25.06.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Criminal Revision Petition filed under Sections 435 to 437 and 439 of the Code of Criminal Procedure, 1898 **("Cr.P.C.")**, read with Section 561-A thereof, the Petitioner/Accused has challenged the Order dated 11.04.2025 **("Impugned Order")** passed by the learned Special Judge Central-II, Islamabad, whereby the Application filed under Section 265-K Cr.P.C. by the Petitioner in FIR No. 21 dated 20.06.2013, registered under Sections 420, 468, 471, and 109 of the Pakistan Penal Code, 1860 **("PPC")**, and Sections 5(2) and 47 of the Prevention of Corruption Act, 1947 **("PCA")**, at Police Station FIA Crime Circle, Islamabad **("Subject FIR")**, was dismissed.

2. Briefly stated, the allegations against the Petitioner pertain to unlawful reinstatement of 73 unauthorized persons in the Federal Directorate of Education, Islamabad, allegedly without proper verification of documents, and thereby causing substantial financial loss to the national exchequer. It is alleged that the Petitioner, along with co-accused, facilitated such reinstatements in return for illegal gratification, and manipulated official records in the process.

3. The challan was submitted before the learned trial court. Charge was framed against the Petitioner/Accused on 20.03.2017 and the case was fixed for prosecution evidence. The Petitioner/Accused filed an Application under Section 265-K Cr.P.C.,

which was dismissed vide the Impugned Order. Being aggrieved by the Impugned Order, the Petitioner/Accused has filed the instant Criminal Revision Petition.

4. The learned counsel for the Petitioner/Accused contends that the Impugned Order is contrary to law and facts, and was passed in a hasty and non-speaking manner without application of judicial mind. It is argued that the learned Trial Court failed to appreciate the true nature of the case and ignored that the Petitioner had already been acquitted in two earlier FIRs (FIR No. 01/2011 and FIR No. 04/2012, both registered at FIA Crime Circle) involving the same subject matter, vide orders dated 22.10.2015 and 16.11.2024, respectively. The Impugned Order is based on conjectures and lacks legal reasoning. The Petitioner sought acquittal under Section 265-K Cr.P.C., which, as per settled law, can be invoked even before the framing of charge or recording of evidence, where continuation of trial would amount to abuse of process. It is emphasized that Section 265-K Cr.P.C. and Section 561-A Cr.P.C. are grounded in natural justice and empower courts to prevent misuse of law and protect innocent persons from baseless prosecutions. The learned Trial Court failed to consider that no incriminating evidence exists against the Petitioner, and even after recording of evidence, conviction is highly improbable. The repeated registration of FIRs on the same facts violates Section 403 Cr.P.C. and principles against double jeopardy. The prior acquittals established the Petitioner's innocence, which should have led to discharge in the present matter. In light of the above, it is respectfully prayed that the instant revision petition be accepted, the Impugned Order dated 11.04.2025 be set aside, and the Petitioner/Accused be acquitted under Section 265-K Cr.P.C., as further proceedings would be futile and violative of law.

5. On behalf of Respondents, it is argued that the Impugned Order was passed keeping in view the facts and material available on record; that the learned Court below passed a well-reasoned order; that there is sufficient material available on record for the conviction of the Petitioner/Accused in the instant case; and that the instant Criminal Revision Petition may kindly be dismissed.

6. I have heard the learned counsel for the parties and have also perused the record with their able assistance.

7. The main allegations against the Petitioner/Accused in the case in question are that he, in collusion with the other co-accused, caused substantial financial loss to the national exchequer by unlawful reinstatement of 73 unauthorized persons in

the Federal Directorate of Education, Islamabad, without proper verification of documents.

8. The primary contention raised by learned counsel for the Petitioner/Accused is that the learned Trial Court erred in dismissing the application under Section 265-K Cr.P.C., despite the Petitioner's/Accused's claim that no incriminating evidence is available on record, and that further continuation of the trial amounts to an abuse of process of law.

9. It is important to reiterate the legal standard for invoking Section 265-K Cr.P.C., which allows the Court to acquit an accused at any stage of the trial if there is no probability of conviction based on the evidence and record available. However, it is a discretionary relief, not a right, and must be exercised cautiously and only in clear cases where the futility of the trial is apparent. For ready reference, Section 265-K Cr.P.C. is reproduced as under: –

> *"**265-K. Power of Court to acquit accused at any stage.** Nothing in this Chapter shall be deemed to prevent a Court from acquitting an accused at any stage of the Case; if, after hearing the prosecutor and the accused and for reasons to be recorded, it considers that there is no probability of the accused being convicted of any offence."*

10. The prosecution has submitted Challan under Section 173 Cr.P.C. before the learned Trial Court, Charge was framed on 20.03.2017, and partial prosecution evidence has been recorded. The trial is in progress and, at present, the learned Trial Court cannot arrive at a conclusion that the facts alleged by the prosecution do not constitute the commission of any offence by the Petitioner/Accused. Moreover, the examination-in-chief of the Investigating Officer has been recorded, and cross-examination is yet to be conducted upon him. The culpability of the Petitioner/Accused, or otherwise, can only be determined after the recording of evidence. The learned Trial Court has, in its Impugned Order, rightly declined to prematurely terminate the proceedings.

11. At this juncture, intervention by this Court under revisional jurisdiction is neither warranted nor justified. Allowing the petition at this premature stage would disrupt the due process of law, especially when the prosecution has not yet completed its evidence and retains the right to fully present its case. Accordingly, the instant Criminal Revision Petition stands **dismissed**. However, the learned Trial

Court is directed to conclude the trial positively within thirty (30) days from the receipt of this Order, strictly in accordance with law.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open Court on this _____ day of July 2025.

JUDGE

Sajid/--