

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No.162 of 2025

Applicant : Shaikh Naymat Ali
S/o. Shaikh Ahmed Ali
Through Mr. Rizwan ur Rasheed,
Advocate

Respondent No.2 : SHO of PS Shahrah-e-Faisal.

Respondent No.3 : Qadir Bux
S/o. Zahid Hussain
Through Mr. Zahid Hussain Rajper,
Advocate

Respondent No.1 : The State
Through Ms. Seema Zaidi,
Addl. P. G. Sindh a/w

Date of hearing : 18.05.2026.

Date of Order : 18.05.2026.

ORDER

Jan Ali Junejo, J:-- Through this Cr. Miscellaneous Application filed under Section 561-A Cr.P.C, the applicant has assailed order dated 23.01.2025 passed by the learned Additional Sessions Judge-XI Karachi East, whereby he has dismissed Criminal Revision Application No.62/2024 filed by the applicant against the order dated 19.04.2024 passed by the learned Judicial Magistrate-XV, Karachi East on application under Section 523 Cr.PC.

2. The facts, as narrated by the applicant are that he is running a business at Evacuee Banquet Hall, Block-10-A, Gulshan-e-Iqbal, Karachi, where he came into contact with one Furqan, who was running a car showroom under the name and style of Auto Mobile and Rent a Car. Due to his domestic need for a small vehicle, the applicant purchased vehicle bearing Registration No. BLM-061, Nissan DAYZ, Model 2014, Engine No. 3B20-HR61060, Chassis No.

B21W-0128649, from its owner Muhammad Tahir Qureshi through the said Furqan for a sale consideration of Rs.14,00,000/-, out of which Rs.5,00,000/- was paid through a postdated cheque. The applicant was handed over the vehicle along with running papers and other relevant documents with assurance that the original file and transfer documents would be provided later. Since then, the applicant remained in lawful possession and use of the said vehicle and also paid taxes and insurance thereof. Subsequently, on 08.04.2024, officials of P.S. Shahrah-e-Faisal along with one Qadir Bux reached the applicant's residence and claimed ownership of the vehicle, whereafter the vehicle was taken into custody by police under Section 550 Cr.P.C. and both parties were directed to approach the competent Court. Thereafter, both the applicant and respondent No.3 filed separate applications under Section 523 Cr.P.C. before the learned Judicial Magistrate, who vide order dated 19.04.2024 handed over interim custody of the vehicle to respondent No.3. Being aggrieved, the applicant challenged the said order through Criminal Revision No.62/2024 before the learned Sessions Court; however, the same was dismissed vide impugned order, hence the instant Criminal Miscellaneous Application..

3. Learned counsel for the applicant contends that the impugned order passed by the learned Revisional Court is illegal, without lawful authority, suffering from non-reading and misreading of the material available on record, and has been passed without proper application of judicial mind. He submits that the dispute regarding ownership and possession of the vehicle is purely of civil nature, whereas the police had no jurisdiction to interfere in the matter or to take custody of the vehicle under Section 550 Cr.P.C., as the vehicle was neither stolen property nor a suspicious article within the meaning of the said provision. He further argues that both the learned Courts below failed to appreciate that the applicant was admittedly in last lawful possession of the vehicle and, at the most, the parties could have been relegated to seek remedy before the competent Civil Court. Learned counsel further submits that the

alleged transfer of the vehicle in the name of respondent No.3 is itself doubtful and illegal, as respondent No.3 admittedly never remained in physical possession of the vehicle and the transfer appears to have been managed collusively through misuse of police machinery. He further contends that the learned Revisional Court exceeded its jurisdiction by treating the applications under Section 523 Cr.P.C. as proceedings under Section 516-A Cr.P.C. and passing the impugned order without lawful justification. In support of his contentions, learned counsel has relied upon the dictum laid down by the Hon'ble Supreme Court reported in 2005 SCMR 1063 regarding the limited scope of police powers under Section 550 Cr.P.C., and finally prayed that till final adjudication of the matter, the vehicle in question be handed over to the applicant.

4. Learned counsel for respondent No.3 submits that respondent No.3 is the bona fide, lawful and registered owner of vehicle bearing Registration No. BLM-061, Maker Nissan Dayz, Model 2014, Engine No. 3B20-HR61060 and Chassis No. B21W-0128649, which, at the time of seizure, stood registered in his name as confirmed from the report of the Excise and Taxation Department. He contends that at the time the vehicle was taken into custody, the applicant failed to produce any original ownership documents in support of his claim and even before the learned trial Court no documentary evidence establishing ownership was produced by him. Learned counsel further argues that the applicant has never been the lawful owner of the said vehicle and his alleged claim of purchase through one Muhammad Furqan is baseless, as the said Furqan himself never had ownership rights in the vehicle in question. He further submits that the impugned order has been passed strictly in accordance with law and prayed for dismissal of instant Cr. Misc. Application.

5. On the other hand, learned Addl. P. G Sindh for the State fully supported the impugned order and opposed the present application.

6. I have heard learned counsel for the applicant, learned counsel for respondent No.3 as well as learned Addl. P.G. Sindh for

the State at considerable length and have carefully examined the material available on record with their able assistance. The record reflects that the present controversy pertains to interim custody and rival claims of ownership regarding vehicle bearing Registration No. BLM-061, Make Nissan DAYZ, Model 2014, Engine No.3B20-HR61060 and Chassis No.B21W-0128649. It is an admitted position that at the time when the vehicle was taken into custody by police officials of P.S. Shahrah-e-Faisal, the same stood registered in the name of respondent No.3 as per official record of the Excise and Taxation Department. The applicant, despite claiming that he had purchased the vehicle through one Muhammad Furqan on the basis of an oral agreement, failed to place on record any document of title, sale agreement, transfer letter, receipt or any legally recognized document showing transfer of ownership in his favour. Admittedly, the alleged intermediary namely Muhammad Furqan was neither the registered owner of the vehicle nor any material has been produced to establish that he was duly authorized by the registered owner to transfer the same. Mere possession of the vehicle or payment allegedly made through oral arrangement cannot supersede or displace the official ownership record maintained by the competent authority.

7. That the material available on record shows that rival claims regarding ownership and possession of the vehicle had surfaced before the police authorities, whereafter the vehicle was secured and taken into custody in order to preserve the property and to avoid any breach of peace until determination by the competent Court. The learned Magistrate, while exercising jurisdiction under Section 523 Cr.P.C., was only required to determine interim custody on the basis of prima facie material available before it and not to conclusively adjudicate disputed title or proprietary rights of the parties. The learned Revisional Court, after proper appreciation of the material available on record, rightly maintained the order passed by the learned Magistrate.

8. The plea of learned counsel for the applicant that the matter is purely of civil nature and the parties ought to have been relegated to the Civil Court also does not advance the case of the applicant. It is settled law that proceedings under Sections 523 and 550 Cr.P.C. are summary in nature and are confined only to interim custody and safe keeping of property pending determination of rights by the competent forum. At this stage, the Court is not required to record a definitive finding regarding ownership. In the present case, respondent No.3 was admittedly the registered owner of the vehicle according to the Excise and Taxation Department record, whereas the applicant failed to produce any documentary evidence establishing lawful transfer of ownership in his favour.

9. Furthermore, the allegations leveled by the applicant regarding collusion, misuse of police machinery and illegal transfer of the vehicle in favour of respondent No.3 are merely bald assertions unsupported by any cogent or convincing material. No declaration from any competent forum has been produced declaring the registration or transfer of the vehicle in favour of respondent No.3 as illegal, fraudulent or void.

10. The reliance placed by learned counsel for the applicant upon the judgment reported as 2005 SCMR 1063 has also been considered; however, the facts and circumstances of the present case are distinguishable. In the instant matter, the police had acted upon rival claims over the property and the learned Courts below have independently exercised jurisdiction under Section 523 Cr.P.C. after examining the available record. No jurisdictional defect, illegality, material irregularity or perversity has been pointed out in the concurrent findings recorded by the learned Magistrate as well as the learned Revisional Court warranting interference by this Court in its inherent jurisdiction under Section 561-A Cr.P.C.

11. For the foregoing reasons, I am of the considered view that the applicant has failed to make out any case for interference with the impugned order dated 23.01.2025 passed by the learned Additional

Sessions Judge-XII, Karachi East. Consequently, the instant Criminal Miscellaneous Application being devoid of merits is hereby dismissed. The impugned orders passed by the learned Courts below are maintained. However, the parties shall be at liberty to seek determination of their respective civil rights and title before the competent Civil Court strictly in accordance with law.

These are the reasons of short order dated 18.05.2026.

JUDGE