

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

CP No.D-1320 of 2020
CP No.D-1465 of 2020
CP No.D-1436 of 2020
CP No.D-1480 of 2020

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

*BEFORE: Irfan Saadat Khan,
Zulfiqar Ahmed Khan, JJ*

Zeeshan Malik
Petitioner
in CP No.D-1320/2020 : through Mr.Muhammad
Rehman Ghous, Advocate.

Imran-ur-Rehman
Petitioner
in CP No.D-1465/2020 : None present.

Humayun Malik &
Zeeshan Malik
Petitioners
in CP No.D-1436/2020 : through Mr.Muhammad
Rehman Ghous, Advocate.

M/s. Byco Petroleum Pakistan Ltd.,
Petitioner
in CP No.D-1480/2020 : through Mr.Ghulam
Haider Shaikh, Advocate.

Vs.

Federation of Pakistan
& others
Respondents : through Mr. G. M. Bhutto,
Assistant Attorney General.
&
Mr.Khalid Rajpar, Advocate.

Date of hearing : 20.10.2022

Date of decision : 20.10.2022

JUDGEMENT

Irfan Saadat Khan, J. Since the subject matter of all the four petitions is common, hence these are disposed of through this common judgment.

2. Briefly stated the facts of the cases are that the petitioner in C.P. Nos.D-1320/2020, 1436/2020 & 1465/2020 are the contractors of the Petitioner in C.P. No.D-1480/2020, who entered into a contract of agreement for transporting High Speed Diesel (hereinafter after referred to as HSD) whereas Petitioner in CP No.D-1480/2020 is the company with whom the contract was made. During the night of 11th & 12th

February, 2020 the Customs Officials intercepted the petitioners trucks and found them in alleged illegal transportation of the HSD. Thereafter the Custom Officials registered criminal cases/FIRs against the Petitioners. It is against the said action taken by the Respondent/Department that the present petitions have been filed for quashment of those criminal proceedings / FIRs according to the Petitioners these criminal proceedings/FIRs are uncalled for.

3. M/s. Muhammad Rehman Ghous and Ghulam Haider Shaikh, Advocates appeared on behalf of the Petitioners and stated that the action of the Respondent/Department is illegal. They stated that the allegations raised against the Petitioners for illegal transportation of HSD is not correct. They further stated that the Petitioners in the instant matters have obtained bails from the Special Judge Customs and since in their view the criminal proceedings / FIRs are illegal therefore, the same may be quashed.

4. Mr. G. M. Bhutto, Assistant Attorney General and Mr. Khalid Rajpar, Advocate appeared on behalf of the Respondents and have refuted the arguments of the Petitioners by stating that the vehicles were caught red-handed with the HSD and since the Petitioners are facing criminal proceedings before the concerned Special Customs Court hence filing of the instant petitions are premature and they may be required to appear/approach the concerned Court for redressal of their grievance and these petitions being not maintainable may be dismissed.

5. We have heard both the learned counsel at some length and have also perused the record.

6. It is an admitted position that the petitioners are on bail in respect of the FIRs registered against them and they are facing criminal trial before the Special Customs Court. Counsel for the Petitioners were categorically asked that whether they have ever applied to the concerned Customs Court under Section 265-K of Cr.P.C, if they are of the view that the allegations leveled against the Petitioners are incorrect and the FIRs are bogus. No plausible reply to the said query was furnished by the counsel for the Petitioners rather in a pandemic

manner they replied that the Petitioners could file applications under Section 265-K Cr.P.C before the concerned Court.

7. We are of the view that if the Petitioners are so adamant that the criminal proceedings initiated against them and the FIRs registered against them are illegal and uncalled for and the charges leveled upon them are groundless and that there is no probability of conviction against them, the legal remedy available to them is to file applications under Section 265-K Cr.P.C before the concerned Court, who in our view is fully competent to deal with such type of applications and to decide and deal with the matter strictly in accordance with law. Hence in our view that instant petitions are not maintainable, therefore the same are dismissed. The Petitioners, if so advised, may file applications under Section 265-K Cr.P.C for redressal of their grievance, which would be dealt with in accordance with law, if so filed before the concerned Judge. Above are the reasons for our short order dated **20.10.2022** whereby the instant petitions were dismissed, alongwith the listed applications.

JUDGE

JUDGE

Karachi
Dated: 24.10.2022

SM