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PRESENTED ON
28-08-2024

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for *[Signature]*
Deputy Registrar (Judicial) 4766

IN THE HON'BLE HIGH COURT OF SINDH AT KARACHI

Cr. Misc. Application No. *875* of 2024

Muhammad Amir Irshad Son of Irshad Ali
Muslim, adult,
Resident of Muhalla Ghouri,
Taluka Obaro, District Ghotki,
Sindh

Applicant

VERSUS

- 1. The State
- 2. The Station House Officer,
P.S. Airport.
- 3. The Excise & Taxation Office
Near Civic Centre, District East,
University Road, Karachi



..... Respondents

FIR No.78 of 2019
P.S. Airport, Karachi
U/S:23(i)A of S.A.A,2013

CRIMINAL MISCELLANEOUS APPLICATION UNDER SECTION

561-A Cr.P.C., 1898

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Misc. Application No. 875 of 2024
[Muhammad Amir Irshad vs. The State & Others]

For Applicant:	Mr. Aftab Ali Wasan, advocate
For State:	Mr. Mumtaz Ali Shah, A.P.G. Sindh.
Date of hearing:	11.03.2025
Date of judgment:	11.03.2025

JUDGMENT

Jan Ali Junejo, J:- The present Criminal Miscellaneous Application under Section 561-A of the Code of Criminal Procedure, 1898, has been filed by Muhammad Amir Irshad (hereinafter referred to as the "Applicant") against the impugned order dated 22-07-2024 passed by the learned Additional District Judge-VIII, Malir, Karachi, in Criminal Miscellaneous Application arising out of Session Case No. 1402 of 2019. The Applicant seeks the issuance of a No Objection Certificate (NOC) in respect of a vehicle bearing Registration No. BJT-427, Toyota Corolla GLI, Model 2017, Engine No.Z-494593, Chassis No. NZE170R-4121154, Horsepower 1300 CC, Color Silver (hereinafter referred to as the "vehicle in question").

2. The Applicant claims to be the lawful owner and possessor of the vehicle in question, having purchased it from Mr. Muneer Ahmed Jumani on 15-09-2018 for a total sale consideration of Rs. 30,18,000/-. The payment was made in installments, and the Applicant took physical possession of the vehicle on the date of purchase. The original title documents, including the NOC issued by Bank Alfalah on 31-01-2022, were handed over to the Applicant, who has been in possession of



the vehicle since 15-09-2018. The Applicant entered into an agreement with a rent-a-car company for the monthly hiring of the vehicle at Rs. 45,000/- per month. During this period, FIR No. 78 of 2019 was lodged against one Aarsal Sohail under Section 23(1)(A) of the Sindh Arms Act, 2013, at Police Station Airport, Karachi, in which the vehicle in question was allegedly made case property. Subsequently, a third party, Sohail Jamil, filed Criminal Miscellaneous Application No. 90 of 2019 under Section 516-A, Cr.P.C., seeking the release of the vehicle on *superdari*, claiming to be the last possessor of the vehicle. The application was allowed on 02-08-2019, and the vehicle was handed over to Sohail Jamil.

3. The Applicant asserts that he was unaware of the FIR or the proceedings until he was informed by the Excise and Taxation Office (ETO) that the vehicle was involved in FIR No. 78 of 2019. The Applicant then filed an application before the learned Additional District Judge-VIII, Malir, Karachi, for the issuance of an NOC, which was dismissed vide the impugned order dated 22-07-2024. The Applicant challenges the impugned order on the grounds that it was passed without appreciating the fact that he is the lawful owner and possessor of the vehicle, and that the order is based on a misreading and non-reading of the material evidence on record. The Applicant further contends that the learned Additional District Judge failed to issue notices to the concerned parties, including the SHO, IO, and ETO, and dismissed the application summarily without considering the factual position and the entire material on record.

4. The learned counsel for the Applicant argued that the Applicant is the lawful owner and possessor of the vehicle in question, having purchased it from Mr. Muneer Ahmed Jumani



and having made full payment for the same. The Applicant has been in possession of the vehicle since 15-09-2018 and holds all the original title documents, including the NOC issued by Bank Alfalah. The learned counsel contended that the impugned order is based on a misreading and non-reading of the material evidence on record. The learned Additional District Judge failed to appreciate that the Applicant is the lawful owner of the vehicle and has submitted all the relevant documents to prove his ownership. The learned counsel argued that the learned Additional District Judge erred in not issuing notices to the concerned parties, including the SHO, IO, and ETO, before dismissing the application. The counsel submitted that the matter should have been decided on merits after receiving reports from the concerned parties. The learned counsel submitted that the Applicant cannot be held liable for the acts or omissions of others, particularly when he was unaware of the FIR or the proceedings until informed by the ETO. The Applicant acted in good faith and promptly filed an application for the issuance of an NOC upon learning of the vehicle's involvement in the FIR. The learned counsel relied on several judicial precedents to support the argument that the lawful owner of a vehicle is entitled to the issuance of an NOC, particularly when the vehicle is no longer required as case property and the proceedings have been abated due to the death of the accused. Lastly, the learned counsel has prayed for allowing the present Criminal Misc. Application.



5. Per contra, the learned APG argued that the Applicant has no *locus standi* to seek the issuance of an NOC, as the vehicle was earlier handed over to Sohail Jamil on *superdari* vide order dated 02-08-2019. The APG contended that the Applicant is not the last possessor of the vehicle and, therefore, is not entitled to the issuance of an NOC. The learned

APG submitted that the proceedings in FIR No. 78 of 2019 were abated due to the death of the accused, Aarsal Sohail, and that the vehicle is no longer required as case property. However, the APG argued that the Applicant must first establish his lawful possession of the vehicle before seeking the issuance of an NOC. The learned APG contended that the Applicant has failed to prove his ownership of the vehicle beyond a reasonable doubt, as the vehicle was earlier handed over to Sohail Jamil on *superdari*. The APG argued that the Applicant must first challenge the order dated 02-08-2019 before seeking the issuance of an NOC. Lastly, the learned APG has prayed for dismissal of the present Criminal Misc. Application.

6. I have carefully listened to and evaluated the arguments presented by the learned counsel for the Applicant as well as the learned Assistant Prosecutor General (APG) representing the State. Additionally, I have thoroughly examined the material on record with the utmost diligence and caution. Upon reviewing the record, it is evident that the Applicant has filed an application seeking the issuance of a No Objection Certificate (NOC) for vehicle No. BJT-427, a Toyota Corolla GLI, Model 2017, before the learned trial court. The basis for this application is that the case has been disposed of or abated due to the death of the accused, Aarsal Sohail. It appears that prior to this, an individual named Suhail Jameel had filed an application under Section 516-A of the Criminal Procedure Code (Cr.P.C.) seeking the restoration of vehicle No. BJT-427 in his favor on the grounds of *Superdari*, claiming to be the last possessor of the vehicle. After hearing the matter, the court allowed this application through an order dated 02.08.2019, granting custody of the vehicle to Suhail Jameel. Notably, the present Applicant did not challenge this order, which legally allowed the vehicle's custody to Suhail Jameel as the last



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possessor. It is important to highlight that the present Applicant is neither the last possessor of the vehicle nor was the vehicle handed over to him on Superdari as per the order dated 02.08.2019. In light of these facts, the Applicant lacks the legal standing (locus standi) to obtain an NOC for the vehicle in his name. Consequently, the impugned order issued by the learned trial court is legally sound and does not warrant any interference.

7. It is important to recognize that the inherent jurisdiction granted under Section 561-A of the Criminal Procedure Code (Cr.P.C.) is not intended to serve as an alternative or additional jurisdiction. Its purpose is not to disrupt procedural law based on presumptive findings or hyper-technicalities but to safeguard the interests of justice and address grievances for which no other remedy is available under the Cr.P.C. Justice, in this context, refers to the administration and dispensation of justice by the courts, not as an abstract or intangible concept. Reference is made to the case of *Syed Qamber Ali Shah v. Province of Sindh and others* (2024 SCMR 1123) in support of this principle. Consequently, the present Criminal Miscellaneous Application lacks substantive merit.

8. In light of the above analysis, this Court finds that the Applicant has not established a prima facie case to justify the relief sought. Therefore, the instant Criminal Miscellaneous Application is dismissed.


JUDGE

