IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No. 351 of 2024

Applicant	:	Shaikh Muhammad Imran S/o. Shaikh Muhammad Sadiq Through Mr. Munawar Ali, advocate
Respondent No.1	:	Ghulam Mustafa Memon. Son of Muhammad Ibrahim Memon Through Mr. Mir Naeem Akhtar Talpur, advocate
The State	:	Mr. Sharafuddin Kanhar, A. P. G. Sindh.
Date of hearing	:	20.10.2026.
Date of Order	:	20.10.2026.

O R D E R

Jan Ali Junejo, J:- Through this Criminal Miscellaneous Application, the applicant seeks to set aside the order dated 30.03.2024 (hereinafter referred to as the "impugned order") passed by the learned Additional Sessions Judge-XI, Karachi South, whereby Criminal Revision Application No. 113/2023 filed by Respondent No. 1 for the release of vehicle bearing Registration No. BH-8181, was allowed and the order dated 08.08.2023 passed by the learned Magistrate, dismissing the application filed by Respondent No. 1 under Section 517 Cr.P.C., was set aside.

2. The facts, as reflected from the record, are that the applicant is the lawful owner and last possessor of Toyota Land Cruiser bearing Registration No. BH-8181, Engine No. IUR-02319779, and holds the original documents thereof. The applicant lodged FIR No. 61/2023 under Sections 420, 406 and 506 PPC at Police Station Darakhshan, Karachi, alleging that he was engaged in the business of property and vehicles and had longstanding relations with Respondent No. 1, to whom he had handed over nine vehicles for business purposes, but who subsequently avoided returning the same, thereby committing criminal breach of trust. Meanwhile, the subject vehicle was seized by Hyderabad Police under Section 550 Cr.P.C., whereupon the applicant moved an application under

Section 523 Cr.P.C., and vide order dated 07.03.2023, the vehicle was directed to be handed over to the Investigating Officer of the aforesaid FIR. Subsequently, the police proposed disposal of FIR No. 61/2023 under "C-Class", which was accepted by the learned Magistrate, who also observed that the subject vehicle was in the possession of the applicant. The applicant, being aggrieved by the order dated 12.06.2023, filed Criminal Miscellaneous Application No. 411 of 2023 under Section 561-A Cr.P.C. before this Court, which is stated to be pending adjudication. Prior thereto, the applicant had filed an application under Section 516-A Cr.P.C. for the release of the subject vehicle, which was allowed on an interim basis vide order dated 31.03.2023. Thereafter, Respondent No. 1 filed an application under Section 517 Cr.P.C. for the release of the vehicle, which was dismissed by the learned Vth Judicial Magistrate, Karachi South. Aggrieved thereby, Respondent No. 1 preferred Criminal Revision Application No. 113/2023 under Section 439-A Cr.P.C., to which the applicant filed objections on 06.01.2024. After hearing the parties, the learned Additional Sessions Judge-XI, Karachi South, allowed the revision application and set aside the order dated 08.08.2023, directing the release of the subject vehicle in favour of Respondent No. 1 vide the impugned order dated 30.03.2024. The applicant further states that, despite the passing of the impugned order, the learned trial Court continued issuing production orders for the subject vehicle, commencing with the order dated 01.04.2024. Hence, the applicant has filed the instant Criminal Miscellaneous Application seeking the appropriate relief, hence, this case.

3. Learned counsel for the applicant contends that the impugned order dated 30.03.2024 passed by the learned Additional Sessions Judge-XI, Karachi South is contrary to law and has been passed without proper consideration of the relevant facts, ownership documents, and reports of the concerned authorities, which establish that the subject vehicle bearing Registration No. BH-8181 is registered in the applicant's name in the records of the Excise and Taxation Department, Karachi. He submits that the order dated 08.08.2023 passed by the learned V-Judicial Magistrate, Karachi South, directing the release of the vehicle in favour of the applicant under Section 517 Cr.P.C., was lawful, well-reasoned, and based upon the verified ownership record, and therefore did not warrant

interference in revision. He further argues that the vehicle was initially seized by the police of Police Station Cantt., Hyderabad, under Section 550 Cr.P.C. on 14.02.2023, and the verification report obtained from the Excise and Taxation Department confirmed the applicant's ownership; however, since the vehicle was also involved in FIR No. 61/2023 registered at Police Station Darakhshan, Karachi, it was subsequently handed over to the Investigating Officer of the said FIR. Learned counsel submits that the applicant initially obtained interim custody of the vehicle under Section 516-A Cr.P.C. vide order dated 31.03.2023, which was subsequently converted into a final release order under Section 517 Cr.P.C. vide order dated 08.08.2023, following the disposal of the FIR under "C-Class" on 12.06.2023, and that the relevant surety was also discharged and a no-objection certificate issued in his favour. He further contends that Respondent No. 1 has also filed Suit No. 308/2023 before this Honourable Court, in which the subject vehicle is involved and which remains pending adjudication. He maintains that the learned revisional Court failed to appreciate the legal and factual position, including the applicant's ownership documents and the pending proceedings concerning the same vehicle, and consequently passed the impugned order without lawful justification. Lastly, learned counsel prays that the impugned order dated 30.03.2024 be set aside and the order dated 08.08.2023 passed by the learned Magistrate be restored.

4. Learned counsel for Respondent No. 1 opposes the instant application, contending that the same is an attempt to circumvent the well-reasoned order dated 30.03.2024 passed by the learned Additional Sessions Judge-XI, Karachi South, and is not maintainable, being an abuse of the process of law. He submits that the learned revisional Court rightly considered the significance of possession and the irregularities surrounding the transfer of the vehicle's registration in the applicant's name, particularly when the applicant's own FIR acknowledged the prior possession of the subject vehicle by Respondent No. 1. He further contends that the disposal of FIR No. 61/2023 under "C-Class" does not confer any ownership or possessory rights upon the applicant, nor does it determine the disputed title to the vehicle. Learned counsel argues that the applicant is placing undue reliance upon the registration documents while ignoring the documentary evidence available with Respondent

No.1, including tracker invoices and vehicle insurance documents, which support his claim of ownership and lawful possession. He further submits that the transfer of registration in favour of the applicant was allegedly effected without physical verification of the vehicle, as required under Section 27 of the Provincial Motor Vehicles Ordinance, 1965, and that the learned revisional Court duly considered the said irregularity in light of the principle discussed in PLD 2020 SC 299. He maintains that the question of ownership is already pending adjudication in Suit No. 308/2023 before this Honourable Court; therefore, the applicant's invocation of Section 561-A Cr.P.C. to obtain relief concerning disputed ownership amounts to forum shopping and an attempt to bypass the appropriate proceedings. Learned counsel further submits that after the order dated 30.03.2024, the applicant failed to produce the subject vehicle despite the production order dated 01.04.2024, pursuant to which the Investigating Officer was directed to recover it, thereby giving rise to apprehensions that the vehicle might be sold, transferred, or otherwise dealt with to the prejudice of Respondent No. 1. He argues that the applicant has failed to identify any illegality, material irregularity, or miscarriage of justice in the impugned order warranting interference by this Honourable Court, particularly when the rival claims regarding ownership and possession are already the subject matter of pending civil proceedings. Lastly, the learned counsel prayed for dismissal of the Criminal Misc. Application.

5. The learned A. P. G. Sindh appearing on behalf of the State fully adopted the submissions advanced by the learned counsel for Respondent No.1. He also opposed the instant application, submits that the impugned order passed by the learned revisional Court does not warrant interference, as the ownership and possession of the subject vehicle are disputed between the parties. He further submits that the rival claims require proper adjudication in the pending civil suit and prays that the instant application be dismissed.

6. I have heard the learned counsel for the applicant, learned counsel for Respondent No. 1, and the learned Assistant Prosecutor General, Sindh, and have perused the available record.

7. The controversy in the instant matter primarily relates to the interim custody of the subject vehicle bearing Registration No. BH-8181, Engine No. IUR-02319779. It appears from the record that the vehicle stands registered in the name of the applicant in the record of the Excise and Taxation Department, Karachi, and the applicant has relied upon the relevant registration documents and verification report in support of his claim. The subject vehicle was initially released to the applicant on an interim basis vide order dated 31.03.2023, while the application filed by Respondent No. 1 under Section 517 Cr.P.C. was dismissed by the learned Magistrate vide order dated 08.08.2023. However, while allowing the revision application, the learned revisional Court directed the release of the vehicle in favour of Respondent No. 1 without, as appears from the material placed before this Court, adequately addressing the effect of the available registration record and the previous proceedings concerning the custody of the vehicle.

8. The contention of learned counsel for Respondent No. 1 that the applicant's registration documents are questionable due to the alleged non-compliance with the requirement of physical verification, as well as the documents relating to insurance and tracking relied upon by Respondent No. 1, raises issues requiring proper appreciation of the relevant evidence. At this stage, such rival claims cannot be treated as conclusively establishing ownership in favour of either party merely for the purpose of determining interim custody of the vehicle. Likewise, the disposal of FIR No. 61/2023 under "C-Class" does not, by itself, finally determine the question of ownership; nevertheless, the proceedings arising from the said FIR, the orders passed therein, and the available official record were relevant considerations for the learned revisional Court. The pendency of Suit No. 308/2023, wherein the parties' rival claims are stated to be under adjudication, also does not, by itself, preclude this Court from examining whether the impugned order was passed in accordance with law. The question before this Court is confined to the legality and propriety of the impugned order concerning custody of the vehicle and does not require a final determination of the parties' respective ownership claims.

9. In view of the foregoing discussion, I am of the considered view that the impugned order dated 30.03.2024 suffers from material infirmity

to the extent that the relevant record and previous proceedings concerning the custody of the subject vehicle were not adequately considered while directing its release in favour of Respondent No. 1. Consequently, the instant Criminal Miscellaneous Application is allowed, and the impugned order dated 30.03.2024 passed by the learned Additional Sessions Judge-XI, Karachi South, is hereby set aside. The order dated 08.08.2023 passed by the learned Vth Judicial Magistrate, Karachi South, is restored. It is, however, clarified that the observations made herein are tentative in nature and shall not prejudice the rights of either party in the pending civil suit or any other competent proceedings concerning ownership of the subject vehicle. The competent Court shall independently adjudicate the parties' respective claims in accordance with law.

JUDGE