

IN THE HIGH COURT OF SINDH, KARACHI
Cr. Revision Application No.90 of 2014

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Khalid Hussain Shahani

Applicant:- Syed Abid Hussain through Mr. Muhammad Ali Waris Lari, advocate.

Respondents:- The Presiding officer/Special Judge CNS 1, Clifton Karachi and others through Mr. Musharraf Azhar, Special Prosecutor, ANF.

Date of hearing:- 16.09.2026

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MUHAMMAD IQBAL KALHORO J: Applicant has challenged impugned order dated 19.02.2014, passed by Special Court-I (Control of Narcotics Substance) Karachi in Special Case No.42/2014 arising out of Crime No.39/2011, PS ANF-C, Karachi, u/s 9(c), Control of Narcotics Substance Act, 1997, rejecting his application u/s 517 CrPC for release of Suzuki Pickup Registration No.KQ-1188, involved in the said case.

2. As per brief facts, on 01.07.2011 an ANF team headed by SI Khalid Rasheed had arrested, from Gizri Bridge, Clifton Karachi, accused Syed Qaim Ali Shah and Gul Taj travelling in the said Suzuki Pickup, from which, 15 Kg. of charas was recovered. The case was tried by the Special Court, which convicted both the accused vide judgment dated 24.01.2012. In the judgment, the trial Court ordered confiscation of the subject Suzuki Pickup in favour of the Government. Ultimately, the applicant landed up before the Special Court along with an application u/s 517 CrPC claiming ownership of the said vehicle and seeking its release. This application, as stated above, has been dismissed through the impugned order.

3. Learned counsel for applicant has contended that applicant is owner of the Suzuki Pickup, he was not the accused, nor aware of the

crime committed in it; the owner recorded in the official record Syed Abid Hussain has executed power of attorney for release of the Suzuki Pickup in favour of his attorney. Further, learned counsel has referred to the sale agreement executed in favour of Syed Abid Hussain by the previous owner of the vehicle namely Jan Muhammad to establish his ownership. According to him, the observation of the trial Court in the final judgment that the Suzuki Pickup was unclaimed was wrong as applicant had filed an application u/s 516 CrPC for release of the Suzuki Pickup during the pendency of the trial where he had also submitted all the documents to establish his ownership.

4. On the other hand, learned Special Prosecutor ANF has opposed this application.

5. We have heard the parties and perused material available on record. The impugned order shows that up till registration of the FIR on 01.07.2011 applicant was not the owner of the subject Suzuki Pickup. He became so on 09.07.2011 approximately after eight days of registration of FIR. Although the applicant had filed application u/s 561-A CrPC in the trial Court for seeking possession of the vehicle but the impugned order shows that he did not pursue the same and it remained pending till the case was decided and the property order in terms of section 517 CrPC was passed.

6. The impugned order further indicates that transfer of the Suzuki Pickup in the name of applicant happened not only after registration of the FIR, but also without physical verification of the vehicle. When the Suzuki Pickup was in possession of ANF and its physical verification did not take place, its transfer in the name of applicant was not without a question, has been observed in the impugned order. Further, the trial Court has noted that applicant was in full knowledge of the case and the relevant facts showing that the vehicle was used in transportation of 15

Kg of charas. Yet, he preferred to purchase the same and got it transferred in his name unscrupulously without its physical verification by the relevant department.

7. Before the trial Court, it seems, one Sher Muhammad, who had claimed to be attorney of Syed Abid Hussain, the purported owner of Suzuki Pickup, had appeared through a power of attorney executed by the latter in his favour to claim possession of the vehicle. The trial Court, on examination of the power of attorney, has noted that there was no signature of both the witnesses, and the power of attorney therefore was an invalid document and not reliable.

8. Additionally, learned Special Court in the impugned order has also reproduced section 32 of CNS Act, 1997 to get support for its view of rejecting the application. A perusal of this provision shows that it authorizes the Court to confiscate all the articles connected with the narcotics. But in respect of a vehicle it can be done only when it is proved that the owner of the vehicle was not in knowledge of the offence, was being or was to be, committed.

9. In this case, it is clear that the purported owner of the vehicle at the time of getting registration of Suzuki Pickup in his favour was aware and knew that the case was pending. Such fact is evident from absence of Suzuki Pickup in possession of the previous owner at the time of its sale to applicant, as admittedly it was with the ANF in terms of the FIR. Absence of the vehicle at the time of sale is bound to create suspicion and cause alarm in the mind of its purchaser. In all probabilities, he would not go ahead with such transaction, unless all the pertinent questions regarding absence of the vehicle are answered satisfactorily to him and its absence is accounted for. The fact that the applicant in absence of physical possession of the Suzuki Pickup still chose to purchase the same without getting alarmed and then got it mutated in

his name without physical inspection by the Excise and Taxation Department is sufficient to indicate his knowledge of the pending case.

10. Under the provisions of section 32 of CNS Act 1997, it is clear that the Suzuki Pickup would be liable to confiscation, if it is proved that the owner knew about the case. When, we keep in view all above discussion, coupled with the obtaining facts, we are left with no doubt that applicant was aware of the case and knew that the pickup was used in transportation of narcotics.

11. We, therefore, find no error in the impugned order, either in appreciating the facts or in understanding the law. All the facts and circumstances, discussed above, negate the claim of the applicant to be a bonafide purchaser of the Suzuki Pickup, involved in transportation of narcotics and therefore liable to confiscation in terms of section 32 of CNS Act 1997.

12. Consequently, we find no merits in this application and dismiss it accordingly along with pending application.

The Cr. Revision Application is accordingly disposed of in above terms.

JUDGE

JUDGE

HANIF