

ORDER-SHEET
IN THE HIGH COURT OF SINDH, KARACHI
 Spl. CrI. Acquittal Appeal No. 33 of 2018.

Date of hearing	Order with signature of Judge
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Director, Directorate General of
 Intelligence and Investigation-FBR. Applicant.

Versus

Bashir Ahmed. Respondent.

1. FOR ORDERS ON M.A. NO.9976/2018.
2. FOR HEARING OF MAIN CASE.

Date of hearing
 as well as short order : 25.11.2019

Applicant Director, Directorate General of Intelligence and Investigation-FBR
 through Dr Shahnawaz Memon, advocate.

None for the respondent.

ORDER

FAHIM AHMED SIDDIQUI, J:- The appellant Director,

Directorate General of Intelligence and Investigation-FBR, Karachi on behalf of
 the State has filed this appeal against the acquittal of the appellant Bashir
 Ahmed in a case based on FIR No. M-2173/DCI/Seiz/2016 for the alleged
 offences under Section 156(1, 8, and 89) of the Customs Act, 1969.

2. The case of the prosecution was that a smuggled and non-duty vehicle
 Toyota Land Cruiser Jeep showing Registration No. It JAG-010 (Quetta) has
 been illegally registered with the Motor Registration Authority without having
 the cover of import documents. Since, the Customs Authorities having credible
 information that the said vehicle was plying in Karachi; therefore, a raid was
 conducted on 23-03-2016 and the said vehicle was intercepted near Hub River

Road, Karachi. At that time, the respondent was sitting on the driving seat of the said vehicle. Although the respondent has produced the original registration book; but he could not produce any document regarding the lawful import of the said vehicle. The said vehicle was detained/impounded and the respondent was apprehended and such a memo was prepared in the presence of witnesses.

3. After usual formalities, the challan was submitted for initiating the trial against the respondent. The trial Court framed charge against the respondent to which he denied and claimed trial. The prosecution examined witnesses against the respondent but they could not bring convincing evidence sufficient to warrant conviction against the respondent. After the closure of the prosecution side, the respondent once again denied all the allegations levelled against him in his statement recorded u/s 342 CrPC. In such a situation, the respondent was acquitted at the end of the trial through the impugned judgment.

3. Since none was present on behalf of the respondent; therefore, the counsel for the appellant was asked to make out the case against the respondent so that the instant appeal may be accepted for hearing. I have heard the learned counsel for the appellant and have gone through the impugned judgment and relevant record.

4. The learned counsel for the appellant submits that the learned Special Judge could not appreciate some factual aspect of the case. According to him, the prosecution witnesses have deposed against the respondent but their statements were not given due weight by the learned trial Court. However, in response to a query, he submits that during an adjudication the case was ended against the department and after adjudication, it was held that the same was not a case of duty invading and exchequer have not sustained any loss.

5. After going through the depositions recorded before the learned Special Judge, I have observed that the prosecution witnesses are not coherent with each other on the vital aspects of the case. It is the case of the prosecution that the vehicle was imported without payment of duty but no credible evidence could be collected by the prosecution that the respondent has actually imported the vehicle. In fact, the respondent has established that the vehicle was purchased in an auction, conducted by the Anti-Narcotics Force, Quetta. In such a situation, it is apparent that the said vehicle was impounded by ANF authorities and subsequently, they disposed of the same through an auction being a confiscated vehicle under the law. When this fact was considered by the Adjudicating Officer, he rightly came to the conclusion that the respondent has no hand in the import of the vehicle and he has not caused any loss to the public exchequer, as such he was exonerated. I am of the view that in the existing position of affairs, the learned Special Judge Customs has rightly acquitted the respondent; as such the instant acquittal appeal is misconceived and has no force in it. Hence, the instant acquittal appeal fails and the same was dismissed alongwith the listed application through a short order dated 25.11.2019 for the reasons to be recorded later on and these are the reasons for the same.

Dated:_____

JUDGE