

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
Cr. Revision Application No.124 of 2024
(Muhammad Khurram Nathani vs. The State & another)

Date	Order with signature of Judge
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Direction
For order as to main ability of instant petition

15.01.2025

Mr. Sadaruddin Burioro, advocate for applicant
Mr. Gul Faraz Khatak, DAG

ORDER

MUHAMMAD IQBAL KALHORO J: A case bearing Crime No.14/2021, u/s 4 (i)/5/23 FER Act 1947 read with Section 109 at Police Station FIA State Bank Circle, Karachi was registered by FIA State Bank Circle against three (03) accused on the allegations that they were operating an illegal hawala/hundi business under the guise of M/s. Swiss Exchange Company.

2. During the investigation, a raid was conducted and certain articles including currency in US\$ and PKR from the office of Swiss Exchange Company situated at Shop Nos.32 & 33 Tahir Centre, Near Jahngir Park, Saddar Karachi were recovered, the memo of which was duly prepared. Accused were accordingly charged and by way of a judgment dated 15.05.2024 have been acquitted by the learned trial Court. The learned trial Court, however, while passing the property order has observed that the case property from the office of M/s. Swiss Exchange International Company be returned to the said company except the currency, which is to be confiscated in favour of Federal Government as required by Section 23-H of Foreign Exchange Regulations Act, 1947. Against such property order this revision application has been filed by an authorized person of M/s. Swiss International Exchange Company requesting for return of currency recovered from the office of Swiss Bank.

3. Learned Deputy Attorney General has opposed this application stating that during the trial no application for such a relief was filed by the applicant/M/s. Swiss International Exchange Company, hence, this revision application is not maintainable.

4. Section 23-H of FER, which has been invoked by the trial Court stipulates that any Adjudicating Officer adjudging any contravention under section 23B may, if he thinks fit, and in addition to any penalty which he

may impose for such contravention, direct that any currency, security or any other money or property in respect of which the contravention has taken place shall be confiscated to the Federal Government. However, in the present case, the accused have been acquitted and the learned trial Court has not concluded that any contravention u/s 23B has been committed by either company or its employees/ accused. The acquittal of accused on the contrary shows that the charge against the accused could not be established beyond any reasonable doubt and the contravention alleged against them could not be established. Hence, invocation of powers u/s 23-H of FER by the trial Court does not seem to be justified.

5. Resultantly, this criminal revision application is allowed and the order of confiscation of currency is set aside. The trial Court is directed to return currency recovered from the office of M/s. Swiss International Exchange Company as per memo of recovery to the representative of the company on due verification and identification in accordance with law.

This criminal revision application stands disposed of along with listed application in above terms.

J U D G E

Rafiq/P.A