

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Misc.Application No.S-93 of 2025

Applicant : Aamir Hussain s/o Khadim Hussain Sethar,
Through Mr. Zafar Ali Malghani, Advocate

Respondent/State: Through Mr. Nazir Ahmed Bhangwar, D.P.G

Date of hearing: 30.04.2025

Date of Judgment: 30.04.2025

ORDER

Jan Ali Junejo, J:- The Applicant approached this Court by filing Criminal Miscellaneous Application filed under Section 561-A Cr.P.C, assailing the order dated 25.02.2025, passed by learned Additional Sessions Judge-III, Larkana, whereby Criminal Revision Application No. 06 of 2025 was dismissed. The said revision was directed against the order dated 03.02.2025, passed by the learned Civil Judge & Judicial Magistrate-V, Larkana, in Criminal Miscellaneous Application No.03 of 2025, filed under Section 517 Cr.P.C in Crime No.56 of 2021 registered at Police Station, Civil Line, Larkana. The underlying FIR was lodged under Articles 3 and 4 of the Prohibition (Enforcement of Hudood) Order, 1979. The applicant sought the release of a grey Suzuki Cultus Car, model 2008, bearing Registration No.AQD-437, Chassis No.SF-410PK411488, and Engine No. FS-10074, which was seized as case property in the said crime.

2. The brief facts of the case are that an FIR bearing No.56 of 2021 was registered at Police Station Civil Line, Larkana, on 25.07.2021, at the instance of ASI Hakim Ali. It was alleged that during routine patrolling near Essai Road, Larkana, the police apprehended two individuals, namely Imam Bux and Insaf Ali, and recovered approximately 86 Kilograms of hemp from a grey Suzuki

Cultus vehicle bearing Registration No.AQD-437. The said vehicle was seized as case property. Upon completion of the investigation, both accused were sent up for trial in Criminal Case No.201 of 2021. The trial concluded with their acquittal on 15.03.2022 by the learned trial Court under Section 245(1) Cr.P.C. The Court further directed that the recovered narcotics be destroyed and the vehicle be released to its lawful claimant, if any. Nearly three years later, the present applicant moved an application under Section 517 Cr.P.C, asserting ownership of the subject vehicle. In support, he produced a photocopy of a showroom receipt and claimed that the vehicle had been robbed from him on 15.06.2021. In response to the Court's direction, reports were submitted by the concerned Station House Officer and the Excise & Taxation Department, Karachi. The latter confirmed that the registered owner of the vehicle was one Sualeha Alam. Although the proprietor of Hasnain Motors appeared to support the applicant's claim, he failed to furnish any official sale documents or registration transfer records. Upon considering the material on record, the learned Judicial Magistrate dismissed the application. A revision petition filed against the said order also met the same fate, as the learned III-Additional Sessions Judge upheld the trial court's findings through the impugned order dated 25.02.2025.

3. Learned counsel for the applicant argued that the vehicle in question was robbed from the applicant on 15.06.2021 near Samtia Rice Mill and thus he is the last lawful possessor of the vehicle. He submitted that the car was purchased from Hasnain Motors and produced a photocopy of a receipt to substantiate ownership. He also argued that the prolonged custody of the vehicle at the police station renders it susceptible to damage, and that the car, no longer needed as case property, should be returned to its rightful claimant. Lastly the learned counsel prays for allowing the present Criminal Misc. Application and setting aside the Orders passed by the Courts below.

4. Conversely, learned DPG vehemently opposed the application, arguing that the applicant has neither produced any document establishing legal ownership nor he is reflected as owner in the records of the Excise and Taxation Office. The report from the Excise Department, dated 13.01.2025 (No. ETO/MR/253/2025), clearly states that the registered owner is one Salah Alam, a resident of Karachi. The said person has neither appeared before any court nor has she filed any No-Objection (NOC) in favour of the applicant. Furthermore, the application is barred under Article 14 of PEHO, which mandates confiscation of any vehicle used in the commission of an offence under the Ordinance.

5. From the record, it is evident that the subject vehicle, a grey Suzuki Cultus, Model 2008, Registration No. AQD-437, was seized in connection with Crime No. 56 of 2021 registered under Articles 3 and 4 of the Prohibition (Enforcement of Hudood) Order, 1979. The trial concluded with the acquittal of the accused persons and the case property, including the subject vehicle, ceased to be required for evidentiary purposes. The applicant approached the Court with a claim of being the last lawful possessor of the vehicle, asserting that it had been robbed from him prior to its seizure by the police. In support of his claim, he submitted a showroom receipt and, more importantly, filed a statement along with an affidavit of no-objection sworn by the registered owner, Mst. Salah Alam D/o. Shah Alam, drafted on stamp paper. This no-objection has neither been challenged nor contradicted by any rival claimant. Furthermore, the Excise and Taxation Department confirmed the registered ownership in the name of Mst. Salah Alam, aligning with the submitted affidavit. While the applicant failed to produce original sale or transfer documents, the affidavit of the registered owner and the absence of any counterclaims support the applicant's bona fides. The

contention of the learned DPG regarding the bar under Article 14 of PEHO is noted; however, in light of the acquittal of the accused and the lack of any confiscation order by the trial Court under the said provision, this objection holds no legal weight at this stage. Additionally, the prolonged retention of the vehicle at the police station serves no useful purpose and is likely to diminish both the value and utility of the subject vehicle due to environmental exposure and lack of maintenance. Therefore, under the circumstances, the applicant has made out a justifiable case for restoration of the vehicle.

6. In view of the above discussion, the instant Criminal Miscellaneous Application is allowed. The impugned orders dated 03.02.2025 and 25.02.2025 passed by the learned Judicial Magistrate-V and the learned III-Additional Sessions Judge, Larkana, respectively, are hereby set aside. The subject vehicle shall be released to the applicant upon furnishing a personal recognizance (P.R.) bond equivalent to its current market value before the learned trial Court. Upon such compliance, the learned trial Court shall issue the necessary release letter for restoration of the vehicle in accordance with law.

JUDGE