

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No.169 of 2016

Present: **Mr. Justice Nazar Akbar**

Applicant No.1 : Gul Muhammad S/O Malho,
Applicant No.2 : Abdul Fateh S/o. Muhammad Hassan
Through Mr. Javed Anwar, advocate.

Versus

Respondent : The State,
Through Ms. Seema Zaidi, D.P.G.

Date of Hearing : **09.05.2019**

Date of Decision : **20.05.2019**

J U D G M E N T

NAZAR AKBAR, J.- Applicants preferred this Criminal Revision Application against the order dated **22.03.2016** delivered by learned Sessions Judge, West Karachi, passed in Sessions Case No.69/2014, whereby application for return of surety documents and NOC filed by the applicants was dismissed.

2. To be very precise, the facts of the case are that applicant No.2 is the owner of Truck bearing No.TKL-A77 and having the business of clearing and forwarding. On 11.04.2014, some culprits tried to snatch the said Truck, which was loaded with marbles, thereafter the driver of the truck made hue and cry upon that police came and after exchange of firing, the police recovered the truck with marble, however, in exchange of firing, one culprit died at the spot and the other one was arrested in injured condition, therefore, the driver of the truck registered the FIR. Thereafter applicant No.2 filed application under Section 516-A of the Cr.P.C in which learned District and Sessions Judge, West Karachi handed over the truck alongwith marble to him subject to furnishing solvent surety in the

sum of Rs.5,00,000/- with P.R Bond in the like amount. Applicant No.1 stood surety and submitted documents of a Plot No.124, situated at Village Msroor Colony, Deh Mauripur, Keemari, Karachi, therefore, the truck was handed over to applicant No.2. Thereafter the arrested accused, after getting bail from the trial Court, become absconder and the case was kept on dormant file, and applicant No.1 has filed application for return of surety before the trial Court.

3. The trial Court dismissed the application for return of surety documents by order dated **22.03.2019**. Against the said order applicants filed instant Criminal Revision Application.

4. Learned counsel for the applicant contended that since the file of the criminal case was kept on dormant file, therefore, the surety documents should have been returned by the trial Court but the trial Court has dismissed the said application.

5. I have perused the impugned order in which the learned trial Court has observed as under:-

Perusal of case record shows that vehicle bearing registration No.KTL-877 was released on Superdari to its original vide order dated 26.4.2014. Perusal of record further shows that the accused has been absconded away, thereafter this Court initiated the proceedings under section 87/88 Cr.P.C. and declared the accused as proclaimed offender and his case was kept on dormant file by this court vide order dated 25.8.2014.

Since the case has not been finally decided and kept on dormant file by this Court, therefore, application for return of surety documents and NOC is dismissed as case has not been finally disposed of as yet. Order accordingly.

The above observations of the trial Court clearly show that the case has not been finally decided and it has been kept on dormant file by the trial Court, therefore, the learned trial Court has rightly

dismissed the application for return of surety documents filed by the appellants.

6. In view of the above facts, the learned trial Court has rightly passed the impugned order and the same does not require interference by this Court, therefore, this Criminal Revision Application is dismissed with no orders as to cost.

JUDGE

Karachi

Dated: 20.05.2019

Ayaz Gul