

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Misc. Application No.181 of 2021
(Anwr Faiz Malik v. IVth Additional District and Sessions Judge Malir
Karachi and 03 others)

DATE: ORDER WITH SIGNATURE OF THE JUDGE

1. For order on office objection (Flag A)
2. For hearing of main case
3. For hearing of MA No.3178/2021

29.04.2024

Syed Samiullah Shah, advocate for the applicant
Mr. Muhammad Anwar Mahar, DDPP
M/s. Afnan Saiduzzaman Siddiqui and Iftikhar Hussain,
advocates for respondent No.3

The facts in brief necessary for the disposal of the instant Crl. Misc. Application under Section 561-A Cr.PC are that the applicant lodged an FIR with PS Shah Latif Town alleging misappropriation of Caterpillar loader vehicle owned by her late husband by the accused involved therein, on the basis of fake documents. On investigation, the subject vehicle was secured by the police. The applicant and accused involved in such case sought its custody by making such applications, however, its' custody on *superdari* was given to the private respondent by learned IV-Judicial Magistrate Malir Karachi vide order dated 12.03.2021; it was impugned by the applicant by making a revision application; it was dismissed by learned IVth- Additional Sessions Judge Malir vide order dated 17.3.2021; it is impugned by the applicant before this Court by preferring the instant Crl. Misc. Application.

It is contended by learned counsel for the applicant that the applicant being a lawful heir of her late husband is entitled to custody of the subject vehicle. By contending so, he sought for direction to the learned trial Magistrate to hand over the custody of the subject vehicle to the applicant by setting aside the impugned order.

Learned DDPP for the State and learned counsel for the private respondent have sought the dismissal of the instant Crl. Misc. Application by contending that the case has finally been disposed of by learned trial Magistrate and Civil Suit seeking a declaration of her title over the subject vehicle filed by the applicant is pending adjudication before this Court.

Heard arguments and perused the record.

As is indicated in the impugned order, the dispute between the parties is over the ownership of the subject vehicle; such fact also takes support from a Civil Suit which the applicant has filed before this Court seeking a declaration of her ownership over the subject vehicle. The subject vehicle was given to the private respondent by the learned trial Court on *superdari* based on last possession; it was interim in nature. No illegality is noticed in the impugned order which may justify this Court to interfere with the same by way of instant Crl. Misc. Application; it is dismissed accordingly.

JUDGE