

THE HIGH COURT OF SINDH, KARACHI

Spl. Cr. Misc. Appl. 11 of 2015

[Javed s/o Jaffer Ali v. The State]

Applicant : Javed son of Jaffer Ali through Mr. Khalid Iqbal Advocate, holding brief for Mr. Khawaja Shams-ul-Islam Advocate.

The State/Respondent : Through Mr. Nadir Khan Burdi, Advocate.

Ms. Alizeh Bashir, Assistant Attorney General for Pakistan.

Date of hearing : 14-07-2025

Date of decision : 14-07-2025

ORDER

Adnan Iqbal Chaudhry J. – In view of previous cautions recorded in the order sheet, the request for adjournment is denied.

The Applicant is an importer of goods. Under section 561-A Cr.P.C., he prays for quashing FIR No. PQ/182/DCI/DIV-III/2014 dated 29-10-2014, lodged against him for committing the offence of misdeclaration set-out in section 32(1) of the Customs Act, 1969 and punishable with imprisonment by the Special Judge (Customs, Taxation & Anti-Smuggling) Karachi under clause 14 of section 156(1) of said Act. While the criminal case was pending before the Special Judge, the Customs Appellate Tribunal decided adjudication proceedings in favour of the Applicant by judgment dated 22.05.2015, against which SCRA No. 1370/2015 by the DG I&I-FBR is said to be pending before the High Court. However, based on the judgment passed by the Customs Appellate Tribunal, this Court stayed the criminal proceedings before the Special Judge vide order dated 21.12.2015 which stay order continues to-date.

2. The FIR alleged inter alia that the Applicant had mis-declared the description, quantity and value of PSP-II and PSP-III video

gaming modules imported from China, and wrongly cleared American-made guitar strings under an SRO applicable to Chinese-origin goods. The Applicant contended inter alia that the examination report prepared by the DG I&I was incorrect and malafide which did not appreciate the difference between low-cost Chinese handy games and high-end PSP gaming modules. Learned counsel for the Applicant submits that after the Customs Appellate Tribunal has found for the Applicant, the FIR is liable to be quashed. However, when queried whether the remedy available before the Special Judge under section 265-K Cr.P.C. was ever invoked, learned counsel accepts that it was not.

3. It is by now settled law that the inherent jurisdiction of the High Court under section 561-A Cr.P.C. was not an alternate or a substitute of the express remedy provided before the trial Court by sections 249-A Cr.P.C. or 265-K Cr.P.C.; that where two Courts have coextensive or concurrent jurisdiction, then in ordinary circumstances the rule of propriety demanded that jurisdiction of the lower Court be invoked first; and that in such cases the inherent jurisdiction of the High Court should not be exercised as a routine but only in extraordinary circumstances which warrant the exercise of such jurisdiction while by-passing the alternate remedy available. Reliance is placed on the cases of *Muhammad Farooq v. Ahmed Nawaz Jagirani* (PLD 2016 SC 55) and *FIA v. Hamid Ali* (PLD 2023 SC 265).

4. The case in hand does not bring forth any extraordinary circumstance that may convince this Court to exercise inherent jurisdiction to quash the FIR when the Applicant has not availed remedy before the Special Judge under section 265-K Cr.P.C. The application is therefore dismissed.

JUDGE

Karachi

Dated: 14-07-2025

SHABAN*