

THE HIGH COURT OF SINDH, KARACHI

Spl. Cr. Misc. Appl. 98 of 2000

[Hussain Umer v. The State]

Applicant : Hussain Umer son of Haji Umer Ahmed through Ms. Wahiba Junejo, Advocate holding brief for Mr. Ahmed Ali Hussain Advocate.

The State/Respondent : Through Ms. Dil Khurram Shaheen, Advocate.

Date of hearing : 28-08-2025

Date of decision : 28-08-2025

ORDER

Adnan Iqbal Chaudhry J. - A request for adjournment is made on behalf of Mr. Ahmed Ali Hussain Advocate. However, considering the age of the case and the fact that the point of law involved is settled, I do not grant an adjournment.

2. The Applicant carried on business in the Export Processing Zone [EPZ] at Karachi. On 15.03.2000, FIR No. SI/Misc./18/2000-CUZ/EPZ was registered against the Applicant alleging that under the garb of a certificate issued by the EPZ for import of 'computers', the Applicant imported and managed to clear telecom 'transmission equipment'. The Applicant was thus booked for offences of smuggling and misdeclaration under sections 2(s) and 32 respectively of the Customs Act, 1969. By way of this application under section 561-A Cr.P.C., the Applicant prayed for quashing the FIR. By an interim order dated 14-04-2000, proceedings under the FIR were stayed thus halting investigation. Thereafter, by order dated 30.10.2000 the investigation was allowed to continue while staying further proceedings, which order continues till date.

3. The case of the Applicant appears to be that the alleged misdeclaration, if any, does not result in evasion of customs duty and

taxes, and that the provisions of the Customs Act cited against the Applicant did not apply to imports made for the EPZ. However, the fact of the matter remains that the averments made could only be discerned upon an investigation report, whereafter the same ground can be urged by the Applicant before the Special Judge Customs in seeking acquittal under section 265-K Cr.P.C..

4. It is by now settled law that the inherent jurisdiction of the High Court under section 561-A Cr.P.C. is not an alternate or a substitute for the 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 should 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 to by-pass 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).

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

JUDGE

Karachi

Dated: 28-08-2025

**PS/SADAM*