

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Cr. Revision Appl. No.36 of 2026**

Presents:  
Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Khalid Hussain Shahani

**13.08.2026**

Syed Dilshad Hussain, advocate for applicant.  
Mr. Musharaf Azhar, Special Prosecutor ANF

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**ORDER**

**MUHAMMAD IQBAL KALHORO** J:- Applicant claims to be owner of a vehicle bearing registration No.BYU-777 involved in Crime No.22/2019 U/s 9 (C), CNS Act, 1997 of P.S. MACHS Korangi in which two accused were arrested on 23.08.2019 and from whom allegedly 12 K.Gs Charas was recovered. Hence they were booked and tried by Special Court CNS, Karachi. Vide judgment dated 23.12.2020 they were convicted and sentenced to suffer RI for 02 years.

2. In the said judgment, no order regarding vehicle confiscation or otherwise was passed; hence prosecution filed an application u/s 517 Cr.P.C which was contested by the applicant seeking restoration of the vehicle. This application was allowed by the trial court in the terms of impugned order dated 05.12.2025 holding that the applicant was not entitled to return of the vehicle, hence this application.

3. Learned counsel for applicant has argued that applicant is the actual owner of the vehicle, who was not aware of the subject offence and had even filed an application u/s 516 Cr.P.C before the trial court. He further submits that in terms of section 32 of CNS Act, the vessel/vehicle etc. can be confiscated only when there is evidence that the owner was in knowledge of the offence. In this case there is no evidence or any circumstance indicating convincingly that the applicant was in knowledge of the offence.

4. On the other hand, learned Special prosecutor ANF has relied upon two case laws<sup>1</sup>, one decided by this court, to oppose this application on the ground that applicant is not the registered owner. This application is not maintainable in that silence of the applicant to file such application

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<sup>11</sup> PLD 2020 SC 299 & order dated 10.12.2025 passed in Cr. Rev. Appl. No.14/2025

immediately after registration of the FIR would lead to a presumption that he was aware of the offence.

5. We have gone through the material available on record and considered submissions of the parties as well as the case laws cited at bar. This court in the cited order has mainly held that silence of the owner to pursue the legal remedy before any forum after seizure of the vehicle would lead to a presumption of his knowledge of the offence. It would be considered sufficient to deny him restoration of the vehicle. Since the applicant had filed application only after acquittal of the accused on the basis of some suspicious agreement of sale of the vehicle with the owner, the applicant was not entitled to a relief u/s 517 Cr.P.C. Further, the proviso to section 32 CNS Act was not applicable as he was not the registered owner.

6. With respect to the ratio laid down in the cited case, we are of the view that facts and circumstances of this case are quite different. In this case, *prima facie* there is no cogent evidence that applicant had any connection with the subject offence. Secondly, applicant during the trial had moved an application for restoration of the vehicle on *superdari* but that unfortunately was dismissed and he did not pursue it further. Thirdly, in this case the registered owner of the vehicle has appeared in the court and filed an affidavit giving no objection to restoration of possession of the vehicle in favour of the applicant on the ground that he has already sold out it to him. All these circumstances make the applicant differently placed than the one whose case for the same purpose was declined by this court earlier.

7. We may further explain that there is no iota of evidence linking the applicant with the offence. He was active from inception in pursuing legal remedy by filing application before the trial court seeking possession of the vehicle and even after judgment had filed objections to the application filed by the prosecution seeking orders for confiscation of the property i.e. the vehicle. Even after dismissal of his objections, he has filed this application. His conduct testifies to the fact that he has never ceased to claim ownership of his vehicle and has been asserting unrebuttedly that he was not aware and had no knowledge of the offence being committed by his driver and cleaner.

8. Therefore, we are of the view that applicant is entitled to restoration of possession of the vehicle. Consequently, this application is allowed. The possession of the subject vehicle should be restored to the applicant on proper verification, identification under the valid receipt.

The Cr. Revision Application is disposed of.

**JUDGE**

**JUDGE**

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