

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Revision Application No.17/2015

Applicant: Muhammad Tahir through Mr. Naheed Afzal Khan advocate

Respondent The State through Mr. Abdullah Rajput, APG.

Date of hearing: 27-04-2015

Date of order: 27-04-2015

ORDER

ABDUL MAALIK GADDI, J:-Through this criminal Revision Application, the applicant has assailed the legality and propriety of the order dated 19-11-2014 passed by the learned Ist Additional Sessions Judge, Malir, Karachi in Misc. Application in Session Case No.927/2013, filed by applicant for return of vehicle to him on Superderi whereby the learned trial Court dismissed the said application which order is impugned before this Court.

2. Facts necessary for the disposal of this Criminal Revision Application are that on 14-07-2013, when the police party of Al-Asif Police Post of Police Station Sohrab Goth were busy in snap checking near Al-Asif Square, where they received spy information that one Coach No.1836 was coming from Peshawar to Karachi in which illicit weapons are available. When the said Coach arrived near Taj Hotel, Al-Asif Square, the police checked the coach/bus, however, its driver namely Muhammad Tahir after seeing the police party, run away, however, police arrested the accused namely Muhammad Ishaq, cleaner of coach/bus and two Launcher Grenade Gun and half KG Explosive material were recovered from the secret boxes of the coach/bus, police also took custody of the said bus, which is involved in cases

vide FIR No.423/2013 U/S 23(i)/A Sindh Arms Act and FIR No.424/2013 U/S 4/5, Explosive Act.

3. I have heard the learned counsel for the Applicant, learned APG and have gone through the impugned order and the case paper available before me.

4. It is contended by the counsel for the applicant that the subject bus was driving by the applicant as such according to him, the applicant having last possession of the bus is entitled for its possession. He further submits that applicant possess all the related documents regarding ownership of the subject bus which were already confirmed from concerned Department i.e. ETO District Swat KPK in the name of Khadim Shah son of Haji Ajmir Shah, who sold out the said bus to Faisal Qureshi through sale agreement and Faisal Qureshi handed over the said coach/bus to him. In support of his arguments he has drawn the attention towards the registration certificate in the name of Khadim Shah, agreement of sale in between Khadim shah and Faisal Qureshi but no document has been produced showing that the present applicant is the owner of the bus.

5. Learned APG has supported the impugned order by arguing that the impugned order passed by trial Court after considered all the material facts available on record.

6. The Vehicle admittedly is not in the name of Applicant and the registered owner of the subject coach/bus is Khadim Shah son of Haji Ajmir Shah. As per record, it appears that Khadim Shah allegedly sold out the subject coach/bus to Faisal Qureshi son of M.U. Qureshi in August, 2009 through agreement of sale which is also non-registered in my view merely agreement of sale does not confer any right or title of applicant on the subject bus. It is contended by learned counsel for applicant that after agreement of sale subject bus was handed over by Faisal Qureshi to the present application, who is the accused in the case. Faisal Qureshi who had allegedly purchased the vehicle in August, 2009 has not appear either before this Court or trial Court to confirm the said assertion, therefore, affidavit if any

executed by Faisal Qureshi in favour of applicant also create serious doubt with regard to genuines of the affidavit executed by Faisal Qureshi in favour of the applicant. As per report of the I/O, the accused Muhammad Tahir was fled away, when the police raided on the subject bus which was carrying huge number of arms and ammunition from Sawat to Karachi, thus he was not in the last possession of the subject bus. From the record, it also appears that through out the trial including hearing of bail application, the defence plea was that the name of the applicant was disclosed by co-accused Ishaque (Cleaner of the bus), who was arrested from the bus and accused Muhammad Tahir had nothing to do with this crime, now accused Muhammad Tahir himself approached to get the possession of the bus. It is also astonishing to note that Faisal Qureshi though allegedly purchased the subject bus in August 2009 from Khadim Shah but till today he has not transferred the subject vehicle in his name, therefore, applicant has no case for allowing this Criminal Revision Application.

7. In view of the above facts and circumstances of the case, no illegality and incorrectness have been found in the impugned order, learned trial Court while passing the impugned order has appreciated all the material facts involved in this case. I, therefore, under the facts and circumstances of the case find no merit in this Criminal Revision Application, which is dismissed.

JUDGE