

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Criminal Revision No.86/2019

Zahid Gull
Vs.
The State and another

Petitioner By: Mr. Muhammad Amjad Ali Malik, Advocate.

State By: Mr. Sadaqat Ali Jahangir, State Counsel
alongwith Habib- Sub-Inspector and Naveed-
Sub-Inspector.

Date of Hearing: 10.02.2020.

GHULAM AZAM QAMBRANI J.: This petition has been directed against the impugned order dated 11.09.2019, passed by Presiding Officer, Special Court (Offences in respect of Banks), Islamabad, whereby an application for Superdari filed by the petitioner, was dismissed.

2. Briefly stated facts of the case are that on 16.12.2015, on the written complaint of one Khawar Hussain, Operation Manager, PWD Branch, U.B.L Rawalpindi, F.I.R No.372 was registered at Police Station Lohi Bher, under Section 109, 409 & 411 P.P.C against the son and daughter-in-law of petitioner namely Raheem Ullah and Mst. Nazia Khurshid with the averments that the above said Raheem Ullah (accused) went up to him and told him that 297 prize bonds each worth of Rs.40,000/- total amounting Rs.1,18,80,000/- (one cror eighteen lac and eighty thousand) have been misplaced and after inquiry the above said Raheem Ullah

failed to give any satisfactory answer and when it was checked through CCTV footage, it was found that the accused Raheem Ullah placed the bonds on an unattended counter, meanwhile a lady wearing veil and gloves took the bonds. It was alleged that the son of petitioner Raheem Ullah and the lady, with planning, committed the theft and misappropriated the huge amount. That after registration of F.I.R, the son of petitioner and the lady both were arrested, during the investigation recovery of Rs.1,18,80,000/- (one crore eighteen lac eighty thousand) were shown by the prosecution in shape of cash and prize bond. After conclusion of the trial, the lady accused was acquitted by the learned Trial Court and convicted the accused Raheem Ullah under Section 409 P.P.C to undergo three years R.I with fine of Rs.20,000/-, and in case of default in payment of fine, further undergo thirty days simple imprisonment while the lady accused Mst. Nazia Khrushid was acquitted from the charge.

3. The above said Raheem Ullah assailed the conviction order in Criminal Appeal No.111/2018, before this Court and the same was allowed vide judgment dated 17.06.2019, by acquitting him from the case F.I.R No.372 dated 16.012.2015 under Sections 409, 109 & 411 P.P.C registered at Police Station Lohi Bher, Islamabad.

4. The petitioner, who is father of acquitted accused Raheem Ullah, filed an application for Superdari of the recovered amount of Rs.1,18,80,000/- before the Special Banking Court, Islamabad

which was dismissed vide order dated 11.09.2019, which reads as follows:-

"Counsel on behalf of bank raised objection that the United Bank Limited has filed criminal petition for leave to appeal before August Supreme Court of Pakistan and produce copy of certificate to that effect from Shah Khawar Law Associates dated 21.08.2019. When the judgment and order of Islamabad High Court, Islamabad is sub judice before the August Supreme Court of Pakistan then in these circumstances, this Court lacks jurisdiction to adjudicate/decide the instant Superdari application. Hence the instant petition is dismissed accordingly."

5. We have heard learned counsel for the petitioner and learned State counsel and have gone through the available record.
6. The learned counsel for the petitioner placed on record copy of judgment of the august Supreme Court of Pakistan in Criminal Petitions No. 934 & 935 of 2019 wherein, the august Supreme Court of Pakistan has been pleased to dismiss the said petitions filed by United Bank Limited against the acquittal of Raheem Ullah.
7. Perusal of the impugned order dated 11.09.2019, reveals that the application filed by the petitioner for Superdari of an amount of Rs.1,18,80,000/- before the learned Presiding Officer, Special Court, (Offences in Respect of Banks), Islamabad, had not been decided on merits on the ground that the United Bank Limited had filed Criminal Petitions No.934 & 935 of 2019 before the Hon'ble Supreme Court of Pakistan. Perusal of the order dated 04.12.2019, passed by the Hon'ble Supreme Court of Pakistan in the above mentioned Criminal Petitions reveals that the same have been dismissed.

8. In view of the above facts and circumstances, the instant petition is **allowed** and the impugned order dated 11.09.2019, passed by Presiding Officer, Special Court (Offences in Respect of Bank), Islamabad, is hereby set-aside. The application filed by petitioner shall be deemed to be pending before the learned trial Court which shall decide the said application in accordance with the law.

(AAMER FAROOQ)
JUDGE

(GHULAM AZAM QAMBRANI)
JUDGE

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