

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. JUDICIAL DEPARTMENT.

Criminal Misc. No. 913/M/2018.

Muhammad Ibrahim

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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20.05.2019.

Mr. Zeeshan Gohar, Advocate for petitioner.
Mr. Fareed Hussain Kaif, State Counsel.
Muhammad Aslam, S.I. P.S. Shams Colony, Islamabad.

Through this CrI. Misc. petition, the petitioner has assailed the order dated 22.10.2018, passed by learned Judicial Magistrate (West), Islamabad, whereby petitioner's application for *superdari* of vehicle No.K-1667, Toyota Hiace has been turned down and the order has been upheld by the learned Sessions Judge (West), Islamabad vide order dated 07.11.2018.

2. Brief facts narrated in this case are that Muhammad Munir S/o Malik Aman appeared before the Forensic Science Laboratory, Islamabad Police Headquarters for the purpose of verification of engine and chassis number of the vehicle K-1667, Toyota Hiace, however, after the test it revealed that chassis number of the said vehicle is cut and weld, as a result whereof vehicle was impounded in terms of Section 550 Cr.P.C. and FIR No.105, dated 19.07.2018, U/S 420, 468, 471 PPC, P.S. Shams Colony, Islamabad was registered.

3. Learned counsel for the petitioner contends that petitioner has applied for *superdari* of vehicle No.K-1667

being its owner but the same was turned down by the Courts below; that petitioner is registered owner of the subject vehicle and same was produced before the FSL for the purpose of technical examination of chassis/engine number and the chassis number was found cut and weld vide report dated 11.07.2018, however, it has been contended that the chassis number is same which was confirmed in the previous technical examination report dated 29.10.2010; that vehicle in question was accidented and to that effect a report No.21, dated 24.04.2014 was registered at P.S Saddar, District Mansehra; that vehicle in question is now owned by present petitioner, who purchased the same from Ghazi Khan; that there is no other claimant of the subject vehicle and the criminal case registered against petitioner is pending before the competent Court.

4. Conversely, learned State Counsel as well as I.O in attendance contends that petitioner has got revised registration book of the subject vehicle in his name through which it has been confirmed that petitioner is the only registered owner and there is no other claimant of the vehicle in question.

5. Arguments heard, record perused.

6. From the perusal of record, it reveals that application filed by petitioner for *superdari* of vehicle No.K-1667, Toyota Hiace was turned down by the Judicial Magistrate and same was upheld by the learned Sessions Judge (West), Islamabad. There is no denial to

the proposition that Toyota Hiace K-1667 is found to be cut and weld vide report dated 11.07.2018 by the FSL however, surprising factor is the previous FSL report dated 29.10.2010 in which results are different and as such cut and weld element has been missing, hence, the previous report seems to be suspicious.

7. On the other hand vehicle in question has been transferred in the name of petitioner and the original registration book has been seen through which it has been confirmed that petitioner is the original owner of the vehicle as confirmed by the motor vehicle examiner Peshawar and as such there is no other claimant of subject vehicle, even the motor vehicle examiner, Islamabad has submitted the report in which vehicle has been found fit except installation of CNG cylinder in the vehicle which is in violation of the OGRA bye-laws.

8. Be that as it may, instant Crl. Misc. Petition is allowed the concurrent findings of the Courts below are hereby set aside, vehicle No.K-1667 Toyota Hiace shall be released on *superdari* to the petitioner subject to furnishing of surety of Rs.5,00,000/- to the satisfaction of trial Court. However, it is made clear that instant order is valid till decision of criminal case only. However, the vehicle in question shall not be transferred or sold to any other party. Copy of this order be transmitted to concerned ETO.

(MOHSIN AKHTAR KAYANI)
JUDGE