

**JUDGMENT SHEET.**  
**ISLAMABAD HIGH COURT, ISLAMABAD,**  
**JUDICIAL DEPARTMENT.**

**W.P No.265/2019.**

**Raja Adnan Mumtaz Satti**

**Vs.**

**The State.**

Petitioner :

In person.

Respondent by:

Mr. Fareed Hussain Kaif, State  
Counsel.

Khalid Mehmood, ASI, P.S Karachi  
Company, Islamabad.

**Date of Decision:**

**24.05.2019.**

**MOHSIN AKHTAR KAYANI, J:-** Through instant writ petition, the petitioner has assailed the order dated 19.12.2017, passed by learned Additional Sessions Judge-IX, West, Islamabad, whereby criminal revision against order of learned Judicial Magistrate Islamabad (West), Islamabad, filed by the petitioner was dismissed. The petitioner has also assailed the order dated 03.11.2017, passed by learned Judicial magistrate Islamabad (West), Islamabad, whereby application filed by the petitioner for Superdari of vehicle No.IDH-7808, Daewoo Racer, Model 1998 was dismissed.

2. Petitioner in person contends that he is owner of vehicle No.IDH-7808, Daewoo Racer, Model 1998, Chassis No.426488, Engine No.304919, which was stolen from his house No.208, street No.36, Sector G-9/1, Islamabad and in this regard FIR No.211/17, dated 31.08.2017, U/S 381-A PPC, P.S Karachi Company, was lodged; that the vehicle was recovered by police of P.S Ramna from accused Tahir Mehmood and Shahzad Bhatti and the same was found tampered, therefore, FIR No.301/17, dated 30.10.2017, U/S 411 PPC, P.S Ramana, was registered against them; that as per record chassis number of the vehicle was found cut and weld, however, engine number was the same when it was recovered by the police; that the vehicle was not given to him on Superdari by learned Judicial Magistrate despite the fact that the vehicle belongs to him; that he filed criminal revision against the order of learned Judicial Magistrate before the Court of learned

Additional Sessions Judge, which was also dismissed on the ground that the vehicle has been tampered and its original chassis number cannot be located and it cannot be assumed that the vehicle has same chassis number, which claims the petitioner; that this observation of learned Additional Sessions Judge is beyond any legal comprehension, especially when there is no other claimant and he has demonstrated from the record i.e. registration book that he is sole owner of the vehicle, which was stolen from his house.

3. Conversely, learned State Counsel contends that the accused persons from whom the vehicle was recovered have been convicted by Trial Court on the basis of their confessional statements and certified copy of order of their conviction has been placed on record, however, learned Judicial Magistrate did not pass any direction qua the said vehicle.

4. I have heard the arguments and perused the record.

5. From perusal of the record, it reveals that the petitioner claims to be owner of vehicle No.IDH-7808, Daewoo Racer, Model 1998, Chassis No.426488, Engine No.304919 and his name is reflected in the original registration book issued by Office of the Excise & Taxation Officer/Motor Registration Authority, Islamabad and he is owner of the vehicle since 06.12.2005. The vehicle was stolen from house of the petitioner and as a result whereof case FIR No. 211/17, dated 31.08.2017, U/S 381-A PPC, P.S Karachi Company, whereas the vehicle was stolen on 26.08.2017 in night between 25/26.08.2017.

6. As per record, two persons namely Tahir Mehmood and Shahzad Bhatti were arrested by police of P.S Ramna and vehicle No.IDH-7808, Daewoo Racer, Model 1998 was recovered from their possession on the basis of suspicion. The vehicle was referred to Forensic Science Laboratory for verification of chassis number and vide report of FSL chassis number of the vehicle was found cut and weld, upon which FIR No. 301/17, dated 30.10.2017, U/S 411 PPC, P.S Ramana was registered against the said persons. The accused persons in case FIR No.211, dated 31.08.2017, U/S 381-A PPC, P.S Karachi Company got recorded their confessional statements and they were convicted and sentenced U/S 381-A/411 PPC vide order dated 10.03.2018. Similarly in case FIR No.301/2017, dated

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30.10.2017, U/S 411 PPC, P.S Ramna, the accused persons confessed their guilt and they were convicted and sentenced U/S 411 PPC vide order dated 16.04.2018.

7. Besides the above referred history, the petitioner filed application for Superdari of the vehicle before the learned Judicial Magistrate, which was dismissed vide impugned order dated 03.11.2017 on the ground that the original chassis number has been found cut and weld. The said order was assailed before the Court of learned Additional Sessions Judge in criminal revision, which was also dismissed on the ground that tampered vehicle cannot be released on Superdari.

8. I have gone through the entire record and I am of the view that there is no other claimant of the vehicle except the petitioner. Even otherwise, accused persons have been convicted and sentenced in case FIR No.211/17 got registered by the petitioner, however, important fact, which escaped from the notice of Courts below is that the petitioner is complainant of the said FIR as the vehicle was stolen from his house. Record further confirms that engine number of the stolen vehicle is the same as reflected from the registration book. The vehicle is of 1998 model, the colour has been changed.

9. While considering above referred facts and after perusal of police report, the I.O was confronted regarding ownership of the petitioner and his status qua the eligibility of the vehicle, whereby the I.O has conceded that there is no other claimant of the vehicle and at this stage the petitioner is the only person, who claims ownership of the vehicle.

10. For the foregoing discussion, the concurrent findings of Courts below are contrary to the record. Therefore, instant writ petition is allowed. Impugned orders are set aside. The vehicle in question shall be released to the petitioner subject to furnishing of surety bond to the tune of Rs.3,00,000/- with learned Trial Court. However, it is made clear that subject vehicle shall not be sold and transferred in the name of any other person. Copy of this judgment be transmitted to Excise & Taxation Officer, Islamabad.

(MOHSIN AKHTAR KAYANI)  
JUDGE