

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**W.P No. 1949/2019**

Chaudhry Muhammad Safdar

***Versus***

The State etc.

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
<b>(01)</b>	20.05.2019	Mr. Nadeem Mukhtar Chaudhry, Advocate for the petitioner.

Through this writ petition, the petitioner has assailed the concurrent findings of the learned Judicial Magistrate (West), Islamabad vide order dated 24.04.2019, whereby the application U/s 540 Cr.P.C. filed by the respondent was allowed and the said order was upheld in criminal revision filed by the petitioner vide order dated 06.05.2019, passed by learned Additional Sessions Judge-V (West), Islamabad.

2. Learned counsel for the petitioner inter-alia contends that both the Courts below have not appreciated the law on the subject and learned Trial Court has permitted to produce the documents annexed with the police record, which will effect the rights of the petitioner. He further contends that the verification report issued by PMDC is not the part of the final challan U/s 173 Cr.P.C. and any such document if placed on record at this stage will, the same would amount to fill up the gap on the part of the prosecution.

3. Arguments heard, record perused.

4. From the perusal of record, it has been observed that the respondent/complainant has filed the application U/s 540 Cr.P.C. for the production of memo of recovery of verification report of PMDC, however, the said memo of recovery is not a part of final challan U/s 173 Cr.P.C. and the police official Khaista Khan HC 5784 while appearing before the Court has acknowledged the submission of said documents in the police file and as such the documents is already available, but not placed before the Court.

5. It is trite law that application U/s 540 Cr.P.C. can be moved at any stage of inquiry, trial or proceedings and it has not been denied by the petitioner's counsel that the document is available with the police file, however, the same could not be placed on record as it was not part of the challan.

6. I have gone through the provisions of Section 540 Cr.P.C., whereby the Court is empowered to examine any person or any document as and when required. The object of Section 540 Cr.P.C. was to advance the interest of justice and not to give benefit to any of the parties at the trial to fill in the lacunas. However, in eventuality where any document, which is not part of the record/challan U/s 173 Cr.P.C, but the same has wrongly been placed in police file due to mistake of some police officials, has to be rectified by calling the said document from police file, therefore, this Court is of the view that the application U/s 540 Cr.P.C. filed by the complainant for summoning and

production of the documents before the final verdict is legally permissible and even otherwise no harm would be caused to the petitioner, who would be given due opportunity of cross-examination of the said witness, who have brought the documents before the Trial Court.

7. I have gone through the impugned orders, wherein no illegality has been observed, hence, could not be interfered in the concurrent findings of the Courts below, therefore, instant writ petition is misconceived, meritless and same is hereby **dismissed in limine.**

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

Ramzan