

**JUDGMENT SHEET**

**ISLAMABAD HIGH COURT, ISLAMABAD,**  
**JUDICIAL DEPARTMENT**

**Writ Petition No.1906/2019**

Qaisar Khan

*versus*

Additional Sessions Judge (West), Islamabad & 2 others

Petitioner by: Mr. Imran Feroz, Advocate.

State by: Ms. Ramsha Izhar, State Counsel.

Date of Decision: 18.02.2020.

**MOHSIN AKHTAR KAYANI, J:** Through the instant writ petition the petitioner has called in question order of the learned Additional Sessions Judge (West), Islamabad, dated 10.04.2019, whereby criminal revision filed by the petitioner against the order of the learned Judicial Magistrate Section 30 (West), Islamabad, dated 15.02.2019, regarding confiscation of vehicle bearing No.LRF-75, has been dismissed.

2. Brief facts referred in the instant writ petition are that the petitioner was arrayed as an accused in case FIR No.40, dated 09.04.2018, under Sections 420/468/471 PPC, P.S. Shams Colony, Islamabad with the allegation that the petitioner was possessing a tempered vehicle i.e. Toyota Corolla (2002), bearing registration No.LRF-75, as the chassis number of the said vehicle was found to be cut and weld. However, the learned Judicial Magistrate pursuant to evaluation of evidence acquitted the petitioner but ordered confiscation of the said vehicle, while the petitioner being aggrieved with such order filed revision petition, which was dismissed vide impugned order dated 10.04.2019. Hence, the instant writ petition.

3. Learned counsel for petitioner contended that the impugned order per se reveals that same is not tenable in law and has been passed in whimsical manner; that the vehicle in question is neither tempered nor stolen as there is no FIR

registered against the said vehicle. However, due to an accident, the front part of the vehicle in question was damaged and subsequently got repaired, even otherwise, the chassis number of the vehicle is same and not changed or tempered, therefore, impugned orders dated 15.02.2019 and 10.04.2019 are illegal being not based on actual facts and circumstances of the case, hence, the same may be declared void and the vehicle in question may be released in favour of the petitioner.

4. Conversely, learned State Counsel while opposing the instant writ petition and in support of the impugned orders contended that the petitioner is not the owner of the vehicle in question as registration book of the said vehicle reveals the owner name as of Muhammad Aslam son of Ali Muhammad, and as such, as per laboratory report the vehicle in question is tempered as the plate bearing chassis number has been replaced through cut and weld; that both the Courts below have rightly appreciated the facts and circumstances of the case and passed the impugned orders, which are liable to be maintained and the instant writ petition may be dismissed.

5. Arguments heard, record perused.

6. Perusal of record reveals that the petitioner claims to be bona fide purchaser of vehicle of make and model Toyota Corolla (2002), bearing registration No.LRF-75, which was produced for verification before the police in the Forensic Science Laboratory and after its technical examination on 05.04.2018, the chassis number has been found cut and weld, as a result whereof, case FIR No.40, dated 09.08.2018, under Sections 420, 468, 471 PPC, P.S. Shams Colony, Islamabad was registered. The vehicle was taken into possession by the petitioner being a bona fide purchaser pursuant to a sale agreement executed with one Attique Hussain, who earlier purchased the vehicle from one Zaheer son of Ali Shan, while the said Zaheer disclosed that he has bonafidely

purchased the vehicle in question from one Muhammad Aslam son of Ali Muhammad.

7. Pursuant to registration of FIR, challan was submitted before the Court, charge was framed on 16.11.2018 and after appreciation of record, the learned Trial Court acquitted the petitioner in terms of Section 249-A Cr.P.C. vide impugned order dated 15.02.2019, while ordered confiscation of the vehicle in question on the ground that chassis number is cut and weld. The petitioner being aggrieved with the said order filed a criminal revision in terms of Section 439-A Cr.P.C., which was also dismissed by the learned Additional Sessions Judge-V, Islamabad, vide impugned order dated 10.04.2019.

8. Perusal of the record reveals that the petitioner has produced different photographs as well as documents to justify that the vehicle in question is accidented one and as such, after repair of the vehicle the plate of chassis number was made cut and weld, even otherwise, the registration book and other documents spell out that he is bona fide purchaser, therefore, the confiscation order by the learned Trial Court is prayed to be declared contrary to law.

9. Keeping in view the contention of the petitioner and the record of the learned Trial Court, this Court observed that petitioner is not a registered owner of vehicle in question, rather he is in possession of all necessary documents and has produced certain photographs to justify that since the vehicle was accidented, during its repair the chassis plate has been cut and weld. However, all these facts, if considered to be true, even then it could not be justified that after the accident an entire new plate of chassis has been welded over the place of previous plate of chassis number and as such, this fact has been appreciated by both the Courts below against the petitioner. Nevertheless, the contention raised by the petitioner requires adjudication of the matter separately by the court of plenary jurisdiction qua the rights of petitioner, if any, however the

learned criminal court has not received any evidence qua the entitlement or eligibility of the vehicle in question, which is not its subject, therefore, concurrent findings of both the Courts below could not be interfered with at this stage.

10. In view of above, the instant writ petition is hereby **DISMISSED** as misconceived. However, the petitioner can approach the court of plenary jurisdiction, if so advised.

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

Khalid Z.