

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Appeal No. 159/2019

Directorate General of Intelligence and Investigation,
Customs, Islamabad.

Vs

Iftikhar Hussain Chaudhary.

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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01) 27-05-2019. Mrs Naziran Malik Advocate, for the
Appellant Department.

This appeal is directed against judgment,
dated 11.03.2019 passed by the learned Sessions
Judge/ Judge Special Court (Customs, Taxation & Anti-
Smuggling), Rawalpindi/Islamabad Capital Territory
whereby Mr. Iftikhar Hussain Chaudhry son of
Chaudhry Muhammad Shafi (hereinafter referred to as
the "**Respondent**") was acquitted from the charge
framed in case FIR No. 10/2017 dated 09.06.2017.

2. The facts, in brief, are that on 03.05.2017, a
vehicle described as Toyota Land Cruiser Prado bearing
registration number RLE-3080, Model-1997
(hereinafter referred to as the "**Vehicle**") was stopped
by the officials of the Directorate General Intelligence

and Investigation Federal Board of Revenue, Islamabad (hereinafter referred to as the "**Appellant Department**"). The driver could not produce the import documents and, therefore, initially it was detained and later seized under the Customs Act, 1969 (hereinafter referred to as the "**Act of 1969**"). The Appellant Department registered a criminal case i.e FIR No. 10/2017 dated 09.06.2017 u/s 156(1)(89) of the Act of 1969. The Vehicle was sent to Forensic Science Laboratory, Islamabad for chemical examination and the latter vide report, dated 03.05.2017, observed that the chassis number was manually punched. After submission of the report under section 173 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the "**Cr.P.C**") the learned trial Court framed the charge vide order, dated 15.10.2018. The Respondent did not plead guilty. The prosecution produced two witnesses. The Respondent despite recording his statement under section 342 of Cr.P.C produced evidence by placing on record the relevant documents relating to lawful import of the Vehicle. The learned trial Court after recording of evidence and affording the parties an opportunity of hearing by extending the benefit of doubt handed down judgment, dated 11.03.2019, whereby the Respondent

was acquitted of the charge framed vide order, dated 15.10.2018.

3. The learned Counsel for the Appellant Department has been heard at length. She could not show any misreading or non-reading of the evidence. Her stress was regarding the chemical examination report submitted by the Forensic Science Laboratory, Islamabad.

4. The learned Counsel has been heard and the record perused with her able assistance.

5. Admittedly, the Vehicle was stopped on a busy road in one of the developed sectors of Islamabad. The respondent had tendered in evidence documents relating to lawful import of the Vehicle. Gul Nawaz, Investigating Officer who entered the witness box as PW-3 had virtually admitted the import documents. The appellant Department could not prove that the Vehicle was smuggled or that it was brought into Pakistan otherwise than through a notified customs station. Moreover, the prosecution could not establish that the import documents produced by the Respondent in evidence related to a vehicle other than the one which was seized in the case in hand.

6. It is settled law that presumption of "double innocence" is attached where an order of acquittal of an accused is challenged. The presumption of "double innocence" can be rebutted if it could be shown that the order was passed as a result of misreading or non-reading of evidence or the same was patently illegal. It is also settled law that the appellate Court would not interfere with acquittal merely because on reappraisal of evidence a different conclusion or opinion could be formed. The finding of acquittal can only be reversed, upset or disturbed in exceptional circumstances such as when the same are perverse, shocking, alarming, suffering from error of jurisdiction or misreading or non-reading of evidence. Reliance is placed on the cases of "Muhammad Zaman Versus The State and others" [2014 SCMR 749], "Muhammad Rafique Versus Muhabbat Khan and others" [2008 SCMR 715], "Jehangir Versus Amin Ullah and others" [2010 SCMR 491], "Mst. Askar Jan and others Versus Muhammad Daud and others" [2010 SCMR 1604], and "Mst. Sughra Begum and another Versus Qaiser Pervez and others" [2015 SCMR 1142].

7. For what has been discussed above, this appeal is without merit and is, therefore, accordingly dismissed in limine.

CHIEF JUSTICE

Tanveer Ahmed.