

ISLAMABAD HIGH COURT, ISLAMABAD

NO. _____ IHC/Jude. Deptt.

(REVISED FORM OF BLUE SLIP)

Case No. WP. 3019-2012

Ch. Sajid Mehmood

Titled

Vs

I. G. of Police, ICT, Islamabad.

(a) Judgment approved for reporting

☒ Yes / ☐ No

(b) Judgment any comment upon the Conduct of the
Judicial Officer for Quality of the impugned
judgment is Desired to be made.

Yes ☒ No

(In case the answer is the affirmative Separate
confidential note may be Sent to the Registrar
drawing his Attention to the particular aspect).

Initial of the Judge.

NOTE

1. If the slip is used, the Reader must attach on top of first page of the judgment.
2. Reader may ask the Judge writing the judgment whether the judgment is to be approved for Reporting of any comment is to be made about the Judicial Officer/ quality of judgment.
3. This slip is only to be used when some action is to be taken.

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No.3019-2012

Chaudhry Sajid Mehmood

Vs.

Inspector General of Police, ICT, Islamabad etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	17.09.2012	Dr. Babar Awan, Advocate for the petitioner.

This writ petition has been moved for seeking directions, not to harass the petitioner, refrain the respondents from changing the nature of chassis, registration and engine numbers, also vehicle be handed over to the petitioner on Superdari.

2. As per the facts narrated, the petitioner purchased a Car Dahitsu Coure, Model-2009, Chassis No.LEO1S-7565425, Engine No.RO65167 in the month of September, 2011 from one Muhammad Azhar Khan s/o Abdul Manan Khan, Karachi against a total consideration of Rs.7,40,000/-. The said vehicle was seized u/s 550 Cr.P.C. by Anti Car Lifting Cell, Islamabad without any information to the lessee or the petitioner, which was rented out at Rs.20,000/- per month to one Ronaq Zaman. Despite efforts made by the petitioner, car has not been returned

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back, despite showing registration papers to them. However, the petitioner apprehends that local police will tamper the said vehicle, may also manage the favourable tampering report, therefore, such act of the respondents was called in question through the above prayer.

3. Learned counsel for the petitioner reiterated the contents and claim raised in the petition. However, on a query with regard to the application of Section 523 Cr.P.C., learned counsel for the petitioner has emphasized that no notice with regard to seizer of the property has been issued or served upon the petitioner, therefore, petitioner finding no way, has invoked writ jurisdiction.

4. While referring Section 523 Cr.P.C., it becomes crystal clear that property seized by the police either u/s 51, or suspected to have been stolen or creates a suspicion or the commission of any offence, shall be forthwith reported to the Magistrate, who shall make order as thinks fit respecting the disposal of the property to the person entitled to the possession thereof. Section 523 Cr.P.C. is reproduced hereunder: -



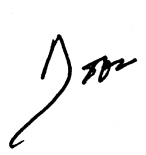
"523. Procedure by police upon seizer of property taken under section 51 or stolen. (1) The

seizer by any police-officer of property taken u/s 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

(2) Procedure where owner of property seized unknown. *If the person so entitled is known, the Magistrate may order the property to be delivered to him on such condition (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation".*


5. From bare reading of Section 523 Cr.P.C., there is a clear scheme of law that the property seized by the police as suspected to have been stolen as required by Section 550 Cr.P.C., has to be reported to the concerned Ilaqa Magistrate, who is required by law to make order think necessary for the disposal of such property to its lawful claimant.

6. Learned counsel for the petitioner has stressed that in case, the vehicle is seized as suspected to be stolen property, there must have been some case registered in respect of the property.



7. Such objection, in fact, does not contain any weight while considering legal aspects. For example, if the property is seized by any police officer from any person having no valid papers or observing the tampered chassis number and engine number, such could be a reason for seizing the property as suspected to be stolen. But ultimately, it has to be ascertained from the very report submitted by the seizing officer before the concerned Magistrate, but cannot be made basis for seeking relief by invoking writ jurisdiction.

8. Another point, which has not been argued by the learned counsel for the petitioner, though contended in the petition is with regard to the apprehension of the petitioner for tampering by the police thereby managed to get favourable tampering report by using their office. In this regard, a guideline is provided by Section 539-B Cr.P.C., which empowers the court, on making an application, to inspect any place of occurrence or any other place necessary to view for the purpose of properly appreciating the evidence during inquiry trial or other proceedings. Section 539-B Cr.P.C. is

 reproduced hereunder:-

"539-B Local Inspection.

(1) Any judge or Magistrate may at any stage of any inquiry, trial or other proceedings, after due notice to the parties visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection".

9. The above referred provision of law empowers the court or Magistrate to inspect place of incident, the place where vehicle is parked and to inspect the vehicle to the extent of apprehensions extended. In case, if such tampering is found, further directions could be issued for its examination through Forensic Science Laboratory (FSL).

10. The Magistrate, while referring the scheme of law, having a very important role, as a supervisory administrator over the police functions, therefore, any proper order can be passed by the Magistrate to supervise the proceedings initiated by the police while seizing the vehicle, even u/s 550 Cr.P.C. because ultimately, report has to be submitted to the court concerned for its final disposal. Section 550 Cr.P.C. is

 reproduced hereunder: -

"550 Powers to police to seize property suspected to be stolen.
Any police officer may seize any


property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizer to that officer”.

11. Since remedy is available to the petitioner for redressal of his grievance, therefore, propriety demands that instead of preferring writ petition, he should have approached the concerned Ilqa Magistrate. In view of legal position, writ petition is incompetent.

12. So far the concern of issuance of notice by the police, as argued, it is not the requirement of law. On the contrary, the petitioner himself should approach the concerned Ilqa Magistrate about submission of report, if not, then he can submit a complaint against the police officials concerned for such their illegal conduct, which otherwise, deemed to be a criminal misconduct requiring notice by courts.

13. In view of above enumerated legal position, writ petition carries no weight, same being non-maintainable, is hereby dismissed ***in limine***.

14. However, the petitioner is at liberty to move before Ilqa Magistrate concerned

 for redressal of grievance and to thrash

out the facts involved by exercising
criminal jurisdiction of the concerned
court.

(NOOR-UL-HAQ N. QURESHI)
JUDGE

ms Zawar

Blue slip added.

Approved for Reporting

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