

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

Criminal Revision No.33/2020

Zahir Gull etc

Versus

The State, etc

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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	05.08.2020.	Mr.Muhammad Amjad Ali Malik, Advocate for Petitioners. Mr.Hasnain Haider Thaheem, State Counsel. Mr.Qasim Zia, S.I. Mr.Habib Dar, S.I.
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Through this Criminal Revision, Petitioners have assailed the order dated 01.7.2020 passed by Judge, Special Court (Offences in Banks), Islamabad whereby application for cancellation of superdari order dated 23.12.2015 regarding the amount of Rs.1,18,80,000/- has been turned down.

2. Learned counsel for the Petitioners contends that Petitioners No.2 & 3 were nominated accused in case FIR No.372 dated 16.12.2015 u/s 409/109/411 PPC PS Lohi Bher, Islamabad for misappropriation of 297 prize bonds each amounting to Rs.40,000/- and total amount was of Rs.1,18,80,000/-, resultantly, Petitioners No.2 & 3 were prosecuted by the Special Court (Offences in Banks), Islamabad whereby Petitioner No.2 was convicted and sentenced to three years R.I with fine of Rs.20,000/- and in case of default of payment of fine convict has to further undergo simple imprisonment for 30 days whereas Petitioner No.3 was acquitted in this case. It has further been

contended that Petitioner No.2 being aggrieved preferred Crl.Appeal No.111/2018 which was allowed by Division Bench of this Court vide order dated 16.5.2019 and Petitioner No.2 was also acquitted in this case. It has further been contended that Petitioners have submitted application for cancellation of superdari of amount of Rs.1,18,80,000/- which was given to UBL but their application was turned down without any legal basis despite the fact that amount so claimed was paid by the Petitioners being its owner and in order to justify his case Petitioner No.1 appeared as DW-1 in the trial Court and reiterated his stance, however, while announcing the final judgment the ownership of the amount has not been settled by the trial Court which is the property of the Petitioners and same was released in favour of UBL.

3. Learned counsel for Petitioners has been confronted regarding the exercise of jurisdiction by the criminal Court i.e trial Court which has already passed the judgment of conviction against Petitioner No.2 in the said criminal case and he has specifically been confronted regarding status of the said Court being *functus-officio* whereby he candidly conceded that Petitioners have approached the Court for cancellation of superdari of amount after final verdict of the trial Court. In such circumstances, the trial Court has no jurisdiction to settle the question of the said amount qua its eligibility and its entitlement which has already been given on superdari to

UBL i.e rival claimant. It is noted that the trial Court has not been requested for release of amount when matter was pending before it. Now trial Court has no legal jurisdiction to settle other question after its final verdict as it required recording of evidence through Court of competent Jurisdiction i.e Civil Court for entitlement of said amount as to whether same belong to the Petitioners or otherwise.

4. In view of above, learned counsel for Petitioners conceded that he will be satisfied if a direction is issued for claiming the said amount through the competent Court of Civil Jurisdiction subject to reasonable direction for early conclusion of the case.

5. Be that as it may, instant Criminal Revision stands ***disposed of*** with the direction to the Petitioners to approach the Court of competent jurisdiction if so advised, however, it is expected that the Civil Court shall adjudicate the matter in accordance with law without prejudice to any observation passed by this Court in this order within a period of one year.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE