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JUDGMENT SHEET  
**LAHORE HIGH COURT,**  
**BAHAWALPUR BENCH, BAHAWALPUR**  
JUDICIAL DEPARTMENT

**Criminal Appeal No.460/2023**

**Muhammad Akram**

**Vs.**

**Additional Sessions Judge and another**

**JUDGMENT**

<b>Date of hearing</b>	<b>31.1.2024</b>
<b>For the Appellant:</b>	Mr. Mehmood Ahmad Bhatti, Advocate.
<b>For the State:</b>	Mr. Najeeb Ullah Khan Jatoi, Deputy Prosecutor General.
<b>Research assistance:</b>	Mr. Umair Ali Khan, Research Officer, LHCRC.

**Tariq Saleem Sheikh, J.** – On 30.08.2007, Mukhtar Ahmad/ASI reported to the SHO of Police Station Anayti, Tehsil Khirpur Tamewali, District Bahawalpur, that he was on patrol duty with fellow officials in Mauza Jhok Lal. Around 7:00 p.m., he received intelligence that a Hyundai Shehzore mini-truck with Registration No. LWC-8370 would transport around 60/65 maunds of ground *poast* concealed under *Khiskhas* bags from Mailsi Saifan to Multan via Kachi Pakki Chowk. Acting on this tip-off, Mukhtar Ahmad/ASI established a picket at a strategic location, and when truck No. LWC-8370 passed by, Mukhtar Ahmad/ASI stopped it based on the informant’s guidance. Three persons got out of the vehicle and fled into the darkness, leaving behind only the driver, Shakeel Ahmad, who was apprehended. Shakeel Ahmad disclosed the identities of his two accomplices as Muhammad Akram (the Appellant) and Muhammad Jaffar. The third was not known to him. Mukhtar Ahmad/ASI inspected the truck with the help of his squad and recovered ground *poast* weighing 65 maunds. He seized both contraband and the truck. In pursuance of this complaint, FIR No. 188/2007 was registered against the aforementioned accused under section 9(c) of the Control of

Narcotic Substances Act, 1997 (CNSA) at the same police station. Later on, the Appellant and Jaffar were also arrested.

2. The Appellant (Muhammad Akram) and his co-accused, Jaffar and Shakeel Ahmad, were tried by the Additional Sessions Judge, Khairpur Tamewali, who convicted them under section 9(c) of the CNSA vide judgment dated 15.12.2011. He sentenced each of them to life imprisonment with a fine of Rs.30,000/-, and in default thereof, to undergo simple imprisonment for one year and four months each, with the benefit of section 382-B of the Code of Criminal Procedure 1898 (hereinafter referred to as the “Code” or “Cr.P.C.”) The Additional Sessions Judge further directed that Hyundai Shehzore No.LWC-8370 shall be confiscated in favour of the State and dealt with in accordance with the law after the expiry of the period of appeal. The Appellant and his co-convicts filed separate appeals against their conviction and sentence (Appeal Nos. 513/2011, 514/2011 and 16/2012), which were accepted by this Court by a common judgment dated 21.11.2012, and all of them were acquitted. However, the learned Division Bench did not pass any order regarding truck No.LWC-8370.

3. On 31.07.2023, the Appellant filed an application with the Additional Sessions Judge, Khairpur Tamewali, asking for possession of truck No. LWC-8370. The Judge dismissed it by an order dated 04.09.2023 for not being maintainable because his court had become *functus officio*. This appeal under section 48 of the CNSA is directed against that order.

4. Mr. Mehmood Ahmad Bhatti, Advocate, argued that the Appellant had been falsely implicated in case FIR No. 188/2007. The prosecution failed to substantiate the charges, as a result of which this Court acquitted him by judgment dated 21.11.2012. He contended that since the Appellant was the rightful owner of truck No. LWC-8370, he was entitled to reclaim its possession. Mr. Bhatti further contended that the application before the Additional Sessions Judge was maintainable, and he had misinterpreted the law in ruling otherwise. Mr. Bhatti explained that the Appellant had been detained in another criminal case and was released from jail in August 2022. He approached the trial court immediately thereafter for the restoration of the vehicle. Hence, there was no delay in pursuing legal recourse.

5. Mr. Najeeb Ullah Khan Jatoy, Deputy Prosecutor General, supported the impugned order dated 04.09.2023. He argued that the Appellant's application for the restoration of truck No. LWC-8370 was time-barred and, even otherwise, the Additional Sessions Judge lacked the authority to consider it. He contended that even this Court was not empowered to entertain such an application. According to him, the High Court could issue an order under Section 520 Cr.P.C. while an appeal or revision was pending and not after their decision.

6. Mr. Jatoy next argued that truck No. LWC-8370 had been used for the transportation of narcotics. Therefore, the Additional Sessions Judge confiscated it in favour of the State under section 32 of the CNSA. Although this Court acquitted the Appellant and his co-accused, the confiscation order issued by the trial court still stands. He contended that the Appellant's acquittal by this Court was based on the benefit of doubt, which did not warrant the restoration of the truck.

7. In rebuttal, Mr. Bhatti passionately argued that since this Court had unconditionally acquitted the Appellant and nullified his conviction and sentence, there were no justifiable grounds for denying him the logical consequences of that verdict. He controverted Mr. Jatoy's claim that the truck could not be delivered to the Appellant because his acquittal was based on the benefit of doubt. Referring to various legal precedents,<sup>1</sup> Mr. Bhatti contended that acquittal is always with "honour" and the law does not make any gradation. He insisted that the Appellant's acquittal was inherently honourable, so the truck should be handed over to him.

### ***Opinion***

8. Chapter XLIII of the Code of Criminal Procedure 1898 delineates the procedure for disposing of properties involved in criminal proceedings. Section 517 stipulates that upon the conclusion of an inquiry or trial in a criminal court, the court may make such order it deems appropriate for the disposal of any property or document presented before it or under its custody or regarding which an offence appears to have been committed, or which has been used for the commission of an offence. The Explanation to section 517 elucidates that the term "property"

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<sup>1</sup> *Dr. Muhammad Islam v. Government of NWFP and others* (1998 SCMR 1993); *Bismillah v. The State* (2021 MLD 1131); *Mohibullah and another v. The State* (2018 P.Cr.LJ 954); and *Muhammad Tariq and others v. The State* (1998 PCr.LJ 1482).

encompasses not only assets originally in possession or under the control of any party but also any property into or for which the same may have been transformed or exchanged, along with anything acquired through such conversion or exchange, whether immediately or subsequently. Section 518 provides that instead of issuing an order under section 517, the court may direct the property to be delivered to a Magistrate of the First Class, who will deal with it as if it had been seized by the police and reported to him, and follow the same procedure prescribed by law for that purpose. Section 519 addresses cases where a person is convicted of any offences which include, or amount to, theft or receiving stolen property. Section 520 stipulates that any court of appeal, confirmation, reference, or revision may suspend any order under sections 517, 518, or 519 Cr.P.C. issued by a subordinate court, pending review by the former court, and may amend, modify, or revoke such order and issue any further orders deemed just.

9. In **Central Cooperative Bank Ltd., Sargodha v. Ahmad Bakhsh** (PLD 1970 SC 343), the Supreme Court of Pakistan ruled that proceedings under section 517(1) Cr.P.C. are distinct from inquiries or trials under the Code. These are collateral proceedings for disposal of the property or document initiated after the connected inquiry or trial concludes. The Supreme Court highlighted that the phrase “as it thinks fit” in subsection (1) of section 517 indicates that the court’s power to dispose of property and documents thereunder is discretionary. However, this discretion must be exercised in accordance with sound judicial principles and not arbitrarily. The property or the document required to be disposed of, as laid down in subsection (1), must have been produced before the court or is in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence. According to the disposal methods outlined in subsection (1), the property or document concerned may be ordered to be disposed of by destruction, confiscation, or delivery to any person claiming entitlement to its possession.

10. There is no difficulty in understanding that if a case in which an order under sections 517, 518, or 519 Cr.P.C. has been passed is pending before a court of appeal or revision, that court has the authority to modify, annul, or alter such an order under section 520 Cr.P.C. However, a

catena of rulings has held that when there is no ongoing case, an application can be made under section 520 Cr.P.C. to the court to which appeals or revisions ordinarily lie from the court that passed the order under sections 517, 518, or 519 Cr.P.C. There was some conflict of judicial opinion on this issue in the pre-partition era, but post-partition, the decisions of the courts in Pakistan are consistent that section 520 Cr.P.C. operates independently. In *Sardara v. Boota* (PLD 1950 Lahore 97), the question arose whether the Sessions Judge was competent to hear an appeal against the trial Magistrate's order regarding the disposal of the property involved in the case. It was argued that section 520 Cr.P.C. only conferred such power to the courts handling appeals or revisions. However, the High Court ruled that section 520 Cr.P.C. does not impose such a restriction and clarified that it allows appellate and revisional courts to intervene in orders made under section 517, even if the primary case has not yet reached them. It observed that the term "court of appeal" in section 520 Cr.P.C. is not strictly limited to a court before which an appeal is pending. Upon examining the facts and circumstances of the case before it, the High Court concluded that the Sessions Judge was competent under section 520 Cr.P.C., as the authority to which an appeal would have ordinarily been presented, to interfere with the order passed by the Magistrate.

11. In *Ghulam Akbar v. The State and others* [PLD 1958 (W.P.) Lahore 212], A.R. Changez J. held that the Code of Criminal Procedure does not explicitly provide for an appeal against an order made under section 517 Cr.P.C. He noted that section 520 Cr.P.C. does not state that an appeal lies under it against such orders; it allows certain courts to stay, modify, alter, or annul orders made by subordinate courts. This jurisdiction granted by section 520 Cr.P.C. is unique and not reliant on appellate or revisional powers. Changez J. explained that if an order under section 517 is part of the main order, which is the subject matter of an appeal, the appellate court can modify or annul it under section 423(d) Cr.P.C. without recourse to section 520 Cr.P.C. However, if the main case is not pending, the courts specified in section 520 are competent to pass necessary orders. Changez J. emphasized that filing an application under section 520 Cr.P.C. to the relevant court suffices to address orders issued by subordinate courts under sections 517 to 519 without the need for a separate appeal or



revision. He noted varying interpretations of such applications, some viewing them as appeals and others as unique revisional proceedings. However, he preferred to characterize this jurisdiction as “special” and “supervisory”, which allows superior courts to rectify orders of subordinate courts. Changez J. further explained that section 520 Cr.P.C. can be invoked to restore property to its rightful owner, even if it was previously delivered to another party by a subordinate court. In an appropriate case, the High Court may also exercise inherent jurisdiction under section 561-A Cr.P.C., which empowers it to make such orders as may be necessary to give effect to any order under the Code, prevent abuse of any court process or otherwise secure the ends of justice.

12. In *Ahmad Bakhsh v. The State and another* [PLD 1966 (W.P.) Lahore 918], it was contended that the High Court could only exercise its powers under section 520 Cr.P.C. when dealing with an appeal under section 423(1)(d) Cr.P.C. or a revision under section 439 Cr.P.C., and had no authority to act under this section after an appeal or revision had been disposed of. The High Court disagreed with this view, reasoning that such an interpretation would render section 520 Cr.P.C. redundant. It noted that the appellate and revisional courts possess powers under the Code of Criminal Procedure, independent of section 520 Cr.P.C., to pass any order for the disposal or delivery of any property about which an order has been made under section 517 Cr.P.C. Hence, while hearing an appeal or revision, the High Court can set aside an order under section 517 Cr.P.C. and substitute it with its own order, without invoking section 520 Cr.P.C. If section 520 Cr.P.C. were only applicable during a pending appeal or revision, it would serve no purpose, as the appellate or revisional court could still make similar orders. This provision is intended for cases beyond those where action can be taken through appeal or revision. The fact that an appeal or revision is preferred against an order of the trial court does not debar a person from seeking a remedy under section 520 Cr.P.C. The phrase “any court of appeal, confirmation, reference, or revision” refers to courts to which appeals, references, confirmations, or revisions ordinarily lie against the trial court’s judgment and decision, and not a court to which an appeal, etc., has, in fact, been preferred. Ordinarily, there may appear to be no difference between a court of appeal and an appellate court, and these terms are sometimes used to convey the same meanings.

However, in the context of section 520 C.P.C., the appellate court is a court that is seized of an appeal, and a court of appeal refers only to which appeals ordinarily lie from the court that passed the order. Thus, even if the appeal has been disposed of, a court of appeal retains the authority to entertain an application under section 520 Cr.P.C.

13. In **Jalal Khan alias Jalley Khan v. The State and another** (PLD 1975 Lahore 45), the High Court clarified that the order for the disposal of property under section 517 Cr.P.C. does not necessarily have to be issued simultaneously with the judgment of the case. It cited several authorities to underscore that there is no specific time limit for filing a restoration application under section 517 Cr.P.C. Such applications can be lodged within a reasonable period following the acquittal of the accused. It emphasized that section 517 Cr.P.C. imposes a duty on the court to make an order regarding the disposal of property under its custody, which continues until the property is disposed of, either through destruction or transfer out of the court's possession. Additionally, the High Court highlighted that the absence of a specified time limit indicates that the exercise of powers under sections 517 and 520 Cr.P.C. is not contingent upon the availability or pendency of an appeal or revision in the original case. Instead, it constitutes an independent and substantive jurisdiction, enabling courts to modify, cancel, or alter orders as necessary for the proper disposal of property.

14. Similarly, in **Ahmad Bakhsh v. The State and another** (PLD 1966 Lahore 918), it was held that the proceeding under section 520 Cr.P.C. is not an appeal – or like an appeal. It is a proceeding of a unique nature. No period of limitation is prescribed for applying under the said provision. This view on limitation was reaffirmed in **The State v. Darshan Lal and another** (PLD 1972 Kar 548) and **Moulvi Sher Muhammad v. The State** (1992 MLD 307).

15. Upon examination of the aforementioned legal provisions and precedents, several vital legal principles emerge. Firstly, section 517 Cr.P.C. imposes a duty on the court to make an order regarding the disposal of property under its custody, which continues until the property is disposed of, either through destruction or transfer out of the court's possession. While ideally, such orders should coincide with the judgment

of the case, they may be issued later if not contemporaneous with the original ruling. Secondly, when a case with an order under section 517 Cr.P.C. is pending before a court of appeal or revision, that court can annul, modify, or alter such an order under section 520 Cr.P.C. In instances where no such pending case exists, section 520 Cr.P.C. permits applications to the court where appeals or revisions typically lie from the court issuing the initial order under section 517 Cr.P.C. Importantly, when no appeal or revision has been filed, or if it was filed but has been disposed of, the court mentioned in section 520 Cr.P.C. can still exercise powers under that provision. Section 520 Cr.P.C. confers unique jurisdiction upon designated courts, enabling them to pass necessary orders to dispose of property.

16. CNSA is a special law that aims to consolidate and amend laws relating to narcotic drugs<sup>2</sup> and psychotropic substances<sup>3</sup>. Its primary objectives include controlling the production, processing, and trafficking of such drugs and substances and regulating the treatment and rehabilitation of narcotics addicts and related matters. Section 47 of the CNSA specifies that, unless otherwise provided in the Act, the procedural provisions of the Code of Criminal Procedure 1898, including those pertaining to the confirmation of a death sentence, shall apply to trials and appeals before a Special Court established under the CNSA. Section 48(1) dictates that appeals against the orders of Special Courts presided over by Sessions Judges or Additional Sessions Judges shall be lodged with the High Court and heard by a Bench of at least two Judges of that Court. Section 48(2) states that an appeal against the order of a Special Court headed by a Judicial Magistrate shall lie to a Special Court comprising a Sessions Judge or an Additional Sessions Judge. These provisions establish a comprehensive legal framework for the adjudication and appellate review of cases related to controlled narcotic substances, ensuring consistency and fairness in legal proceedings under the CNSA.

17. The Supreme Court of Pakistan analyzed the above provisions of the CNSA in **The State v. Fazeelat Bibi** (PLD 2013 SC 361). It ruled

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<sup>2</sup> Section 2(s) states that “narcotic drug” means coca leaf cannabis heroin, opium, poppy straw and all manufactured drugs.

<sup>3</sup> Section 2 (za) states that “psychotropic substances” means the substances, specified in the Schedule to this Act and such substances as the Federal Government may, by notification in the official Gazette, declare to be a psychotropic substance.



that section 47 incorporates the procedural framework of the Code of Criminal Procedure into trials and appeals conducted under the Act without importing specific remedies from the Code to the Act. The Supreme Court underscored that the CNSA inherently provides its own set of remedies, clarifying that the mere applicability of the Code's procedure does not *ipso facto* extend the Code's remedies to the Act. It further stated:

“It ought to have been appreciated by the learned Division Bench of the Lahore High Court, Lahore, that a remedy of an appeal, revision or review is a creation of a statute and applicability of the procedure prescribed in the Code of Criminal Procedure to proceedings under any other special statute does not *ipso facto* make the remedies provided in the Code of Criminal Procedure applicable to the other statute. The Control of Narcotic Substances Act, 1997 is a special law containing all the relevant remedies catering to different situations, and section 47 of the said Act has only made the procedure contained in the Code of Criminal Procedure applicable to the proceedings under the Act of 1997 ... The right of appeal conferred by section 48(1) of the Control of Narcotic Substances Act, 1997 is all pervasive catering to every kind of appeal from every kind of order passed by such a Special Court ...”

18. In view of the above, sections 517 to 520 Cr.P.C. must be read subject to sections 47 and 48 of the CNSA.

19. Section 32(1) of the CNSA mandates that in cases where an offence punishable under the Act is committed, any narcotic drug, psychotropic substance, or controlled substance, along with related materials, apparatus, and utensils used in or for the commission of the offence, shall be liable to confiscation. Section 32(2) further specifies that any lawfully imported, transported, manufactured, possessed, or sold narcotic drug or substance, alongside any illicit substances, shall also be liable to confiscation. Additionally, receptacles, packages, vehicles, vessels, and other conveyances used in transporting these substances are susceptible to confiscation if it is proved that the owner thereof had prior knowledge of the offence. Act No. XX of 2022 has introduced an amendment to section 32(1) of the CNSA through a proviso, which states that if any currency, whether local or foreign, or any valuable item with monetary value used in the commission of the offence under this Act is seized, it shall be confiscated along with other articles.

20. Moving on, section 33 of the CNSA details the procedure for confiscation. Section 33(1) mandates that during the trial of offences under this Act, regardless of the outcome (whether the accused is convicted or acquitted), the Special Court shall determine whether any article frozen or

seized in connection with such offence is liable to confiscation. Section 33(2) further states that if any seized article under the CNSA is deemed liable to confiscation under section 32, but the individual responsible for the offence related to it is unidentified or cannot be located, the Special Court is authorized to investigate and determine such liability and issue confiscation orders accordingly.

21. Since sections 517 to 520 Cr.P.C. must be read subject to sections 47 and 48 of the CNSA as discussed above, an order made under section 33 of the CNSA can only be challenged under section 48. Should such an order be part of the primary order under appeal, the appellate court, irrespective of the powers granted by section 520 Cr.P.C., has the authority to amend, alter, or nullify it and may also issue further orders within its appellate jurisdiction. However, if the main case is not before the appellate court, it still has jurisdiction under section 520 Cr.P.C. to issue necessary orders.

22. In the present case, the Additional Sessions Judge found the Appellant and his co-accused guilty, sentenced them and ordered the confiscation of Shehzore mini-truck No.LWC-8370 in favour of the State. The Appellant and his co-accused separately appealed to this Court, and on 21.11.2012, their appeals were accepted through a common judgment, resulting in their acquittal. However, the Division Bench did not issue any directive regarding the truck. Given the above-mentioned law, the Appellant's application before the Additional Sessions Judge was not maintainable.

23. The facts of the present case are strikingly similar to those of *Ghulam Akbar*, supra. In *Ghulam Akbar*, the Magistrate convicted the applicant under section 411 PPC. The Sessions Judge dismissed the appeal against the conviction and sentence. The High Court acquitted the applicant in revision, holding that the prosecution case was doubtful and that the currency notes of Rs.1,840/- and a pair of gold earrings which were recovered from the applicant belonged to him. However, it did not pass any definite order regarding the disposal of the property. The applicant filed an application under section 520 Cr.P.C. before the High Court for its restoration, which was accepted. Changez J. held:

“Unfortunately, the matter was not brought to my notice at the time when I acquitted the petitioner; otherwise, I would have incorporated the necessary order in that judgment. However, this does not make any difference. I accordingly hold that in the exceptional circumstances of this case, a petition under section 520 Criminal P. C. lay directly to this Court without invoking the revisional jurisdiction of this Court under section 439 Criminal P. C. This petition is, therefore, not barred under section 439(5) Criminal P. C.”

24. Confronted with the above situation, Mr. Bhatti requested that this appeal be treated as an application under section 520 Cr.P.C. and adjudicated accordingly. We have agreed to this request and instructed the office to re-number this case appropriately.

25. The expressions “as it thinks fit” in section 517(1)<sup>4</sup> and “orders that may be just” in section 520 Cr.P.C. signify that the court’s power to dispose of property under these provisions is discretionary. Nonetheless, this discretion must be exercised in accordance with sound judicial principles. Generally, when no offence has been proved or appears to have been committed with regard to the property in question, or if the property has not been used in any criminal activity, it should be restored to its rightful owner. Nevertheless, specific circumstances may necessitate a different course of action. For example, in **Central Cooperative Bank Ltd., Sargodha v. Ahmad Bakhsh** (PLD 1970 SC 343), upon considering the material available on record, the Supreme Court noted that a question of title to the money was involved in the case. The bank had a rival claim, and the circumstances indicated a reasonable doubt as to whether Ahmad Bakhsh was entitled to the return of the money. The Supreme Court held that it was not desirable to decide the issue of title in a proceeding under section 517(1) Cr.P.C. Instead, the matter should be determined by the civil court of competent jurisdiction. Therefore, the Supreme Court directed that Rs.16,000/- already given to the bank under the trial court’s orders shall continue to be held by the bank till the civil court resolved the ownership dispute.<sup>5</sup>

26. In **Manzoor Hussain Jatoi v. The State** (1997 P.Cr.LJ 500), a case under Articles 3 & 4 of the Prohibition (Enforcement of Hadd) Order, 1979, in the operative part of its judgment, the Supreme Court stated: “For the foregoing reasons, we allow this appeal, set aside the conviction

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<sup>4</sup> See paragraph 9 of this judgment.

<sup>5</sup> Also see: *Ghulam Jilani v. Muhammad Yousuf and another* (1972 SCMR 159).

*and sentence of the appellant and acquit him of the charge.*” The Federal Shariat Court ruled that these words unmistakably indicate the applicant’s acquittal of the charge in the aforementioned case. Although the Supreme Court had not issued any specific order regarding the seized property, while allowing the applicant’s appeal, it had set aside his conviction and sentence and acquitted him unconditionally. Therefore, there was no reason to deprive him of the logical consequence of his acquittal. The Federal Shariat Court further stated:

“The order of the Honourable Supreme Court that they ‘acquit him of the charge’ logically implies that he is entitled to all the reliefs consequent to his acquittal, including the release of his property seized under that charge. Unless the Appellate Court exempts a particular relief in express terms, the order of acquittal should entail all the consequential effects thereof. A separate order for each and every consequence of the acquittal is not necessary. Therefore, the trial court, acting on the basis of the order of acquittal recorded by the Honourable Supreme Court could have released the property.”

27. The CNSA is *lex specialis*. Therefore, in cases thereunder, the articles connected with narcotics must be dealt with in accordance with sections 32 and 33 and the proviso to section 74 of the CNSA.<sup>6</sup> A vehicle seized under the CNSA is not liable to be confiscated, and an individual can seek its release if he can establish that he is its lawful owner, that he is neither the accused nor an associate or a relative of the accused or an individual having any nexus with the accused. Conversely, the prosecution must demonstrate that the applicant knew the offence was being or was to be committed. Hence, it cannot be laid down as an absolute rule that a vehicle should always be released to its owner following an acquittal. Instead, each case should be decided on the basis of its peculiar facts and circumstances.

28. In the present case, according to the prosecution, on 30.08.2007, the police seized Shehzore mini-truck No. LWC-8370 transporting ground *poast* concealed under *Khiskhas* bags and apprehended

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<sup>6</sup> We have discussed sections 32 and 33 of the CNSA in the earlier part of this judgment. Section 74 (with the proviso) is reproduced below for ease of reference:

**74. Application of other laws.** – If an offence punishable under this Act, is also an offence in any other law for the time being in force, nothing in that law shall prevent the offender from being punished under this Act:

Provided that nothing contained in Section 523 of the Code of Criminal Procedure, 1898 (Act V of 1898), or any other provision of the said Code or any other law for time being in force, the custody of narcotic drugs, psychotropic substances, controlled substances, any material utensils used for production or manufacture of such drugs or substances or any conveyance used in import, export, transport or transshipment thereof or for commission of an offence under this Act, shall not be given on custody to the accused or any of his associate or relative or any private individual till the conclusion of the case except as provided in the second proviso to subsection (2) of section 33.

Shakeel Ahmad. His accomplices, Mohammad Akram and two others, managed to flee. During the trial, in his statement under section 342 Cr.P.C., Akram denied any association with Shakeel Ahmad. He asserted his innocence, claiming false implication in the case. He highlighted being cleared of any involvement during the investigation by the SDPO Hasilpur on 04.01.2008 and by the S.P. (Investigation) on 09.01.2008. Subsequently, this Court acquitted all three accused persons due to various inconsistencies and weaknesses in the prosecution's evidence. Paragraph 13 of this Court's judgment dated 21.11.2012 is relevant to the issue at hand, which is reproduced below:

"13. The place of recovery is also different, as spoken by PW-2, PW-3, PW-4 and PW-6. Riaz Hussain, retired Inspector, on the transfer of investigation under orders of Additional Inspector General of Police, Lahore, was entrusted the investigation by the SSP, RIB, deposed in his cross-examination that it is correct that the recovery was effected from a truck at Khaji-wala near Khairpur instead of ADA Jhok Lal. He further admitted that the name of accused Shakeel was placed in Column No.2 of the report under section 173 Cr.P.C. Meaning thereby, the only accused, who was apprehended at the spot, was declared innocent by the police during the course of investigation. Perusal of record reveals that all three accused were declared innocent during investigation. Even otherwise, no source whatsoever has been disclosed by anyone, which, for all purposes, suggests that the runaway two accused were Mohammad Akram and Mohammad Jaffar."

29. There is no material on the record indicating Muhammad Akram's direct or indirect involvement in the offence. Documents reflect that he purchased Shehzore mini-truck No.LWC-8370 on 31.07.2006 from Sheraz Khan son of Muhammad Aidal Khan. There is no other claimant of the vehicle. Therefore, we grant his request for its release and restoration to him.

30. **Disposed of.**

**(Sadiq Mahmud Khurram)**  
Judge

**(Tariq Saleem Sheikh)**  
Judge

Announced in open court on \_\_\_\_\_

Judge

Judge

Approved for reporting

Judge

Judge