

JUDGMENT SHEET  
**IN THE PESHAWAR HIGH COURT, PESHAWAR**  
 JUDICIAL DEPARTMENT

**Quashment Petition No.99-P/2017**

**JUDGMENT**

Date of hearing: : 30<sup>th</sup> March, 2018

Petitioner(Biradar Khan) By: Mr. Alam Khan,  
Advocate.

**Respondents.**

State By: Syed Sikandar Hayat Shah,  
AAG.

Naeemullah etc. By: Mr. Asfand Yar, advocate

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**QAISER RASHID KHAN, J:-** Through the petition in hand, the petitioner has called in question the judgment and order dated 13.7.2017 and 4.12.2017 of the learned Judicial Magistrate, Katlang and learned Additional Sessions Judge-VI, Mardan respectively, whereby the request of the petitioner for return of the vehicle on superdari was declined.

2. All that the learned counsel for the petitioner vehemently contends that he has duly purchased the vehicle from the respondent No.2, namely Naeemullah after payment of due

consideration who in turn committed to hand over the transfer letter and the registration book of the vehicle but then he backed out from his commitment which prompted the petitioner to approach the local Nazim for getting the documents of the car, whereafter a Jirga was nominated who in turn handed over the car to the local police, vide Mad No.25, dated 27.5.2017 and the latter took its custody under Section 523/550 Cr.P.C. The learned counsel for the petitioner thus urges that the petitioner is the bonafide purchaser, owner and last possessor of the vehicle and then the police has also held the petitioner entitled to the same and more so that the vehicle is not a stolen one and that the rival claimant has not approached this court for its return, therefore, he is entitled to retain the same on superdari.

3. Such submissions of the learned counsel for the petitioner are resisted by the learned AAG assisted by the learned counsel for the respondents No.2 and 3 who contend that the ownership of the vehicle is still in dispute.

4. Arguments heard and the available record perused.

5. In the present case, the petitioner lays claim to the vehicle on the basis of his purchase from respondent No.1, namely Naeemullah but the latter did not keep his word to hand over the registration book of the vehicle to the petitioner and that is how, the petitioner tried to seek the help of the local Nazim whereafter the Jirga handed over the vehicle to the local police, vide Mad No.25, dated 27.5.2017 and accordingly it was taken over by the police vide Mad No.31, dated 4.6.2017 under Section 523/550 Cr.P.C.

Whereas the petitioner has annexed a copy of the certificate of registration of the vehicle bearing No. LEA-06-3132 with his petition which shows that initially its registered owner was Faisal Bank Limited and then it changed hands when it was transferred to one Tahir Javed S/O Chaudhry Muhammad Jameel and onward to Tahir Ghulam Muhammad S/O Ghulam Muhammad. During the course of submissions, the learned counsel for the respondents No.2 and 3 produced a T.O.Form duly attested by the Motor Registering Authority, Lahore,

showing transfer of the vehicle by Tahir Ghulam Muhammad in the name of Khan-ur-Rehman whereafter he appears to have registered the vehicle in his name as the original registration book was also produced during arguments. Copies of the said documents are placed on file. The learned AAG also produced a photo copy of F.I.R. No. 1274, dated 19.12.2017 of P.S. Timergara, Dir Lower lodged by the said Khan-ur-Rehman against respondents No.2 and 3 for having defrauded him in respect of his vehicle.

6. All these circumstances have made confusion confounded so far as the real owner and last possessor of the vehicle is concerned and its ultimate fate can only be decided by the competent court after recording evidence. Thus request of the petitioner for the grant of vehicle on superdari cannot be acceded to at this stage and this petition accordingly stands dismissed.

Announced on  
30th March, 2018

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