

(28)

IN THE COURT OF ASGHAR SHAH
SESSIONS JUDGE, ORAKZAI
(AT BABER MELA)

CRIMINAL REVISION NO. : 6/10 OF 2021
DATE OF INSTITUTION : 02.01.2021
DATE OF DECISION : 15.01.2021

ISRAR ULLAH ALIAS ISRAR AHMAD S/O ABDUL QAYYUM
KHAN, R/O MIR ALI DISTRICT NORTH WAZIRISTAN

..... (PETITIONER)

-VERSUS-

STATE THROUGH SUPERINTENDENT INTELLIGENCE &
INVESTIGATION (CUSTOMS)-FBR, FIELD INTELLIGENCE
UNIT DISTRICT KOHAT

..... (RESPONDENT)


Present: Akbar Ullah Khan Advocate for petitioner.
: DPP, Umar Niaz for state.

Daily Diary No: 9
U/S: 523/550 Cr.P.C

Dated: 11.09.2020
PS: Upper Orakzai Ghiljo


JUDGEMENT
15.01.2021

As per brief facts, the local police taken into possession the Vitz motorcar belonging to the petitioner bearing chassis no. SCP-130044707 having displayed number plate of registration no. ANN/355 Sindh on the pretext of same being stolen one or involved in commission of any offence. The case was reported vide above mentioned daily diary no. 9 and petitioner was arrested u/s 54 of the Cr.P.C. Inquiry u/s 156 (iii) was initiated during which the recovered vehicle was subjected to the report of Excise and Taxation Karachi, according to the report of which on the given registration number another vehicle is registered at Karachi having



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different model (Suzuki), engine and chassis number. Thus, the vehicle was found unregistered, non-custom paid and smuggled one. Accordingly, section 468/471 PPC have been added besides the respondent u/s 170 of The Customs Act, 1969 requested for the handing over of the custody of the vehicle to him, which application of the respondent was accepted and accordingly, Judicial Magistrate-I, Orakzai vide impugned order dated 19.12.2020 directed the local police to hand over the custody of the vehicle to the custom authorities whereas the application of the petitioner for the return of vehicle was turned down. Aggrieved from the same, the criminal revision in hand has been submitted.

- (2). Arguments heard and record perused.
- (3). From the arguments and record available on file, it reveals that the main contention of the petitioner is that he is the last possessor and bonafidy purchaser of the vehicle in question and that the government has given exemption to the non-custom paid vehicles in the area for five years. It was further submitted on behalf of petitioner that the DPO North Waziristan through a written letter permitted him for the usage of the vehicle for official purpose as such requested for the return of vehicle to him. In support of his arguments, the learned counsel for the petitioner produced a copy of the letter of June, 2018 from the Government of Pakistan (Revenue Division) Federal Board of Revenue regarding exemption


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from federal taxes and another copy of a letter dated 26.06.2018 issued by Government of Pakistan Model Customs Collectorate Peshawar regarding exemption from federal taxes. In both the letters it is mentioned that the use of NCP vehicles will be allowed already registered in FATA for five years till 30.06.2023 but, however, these vehicles will be seized if they crossover to the other areas of Pakistan. However, no proof was provided that the vehicle in question is registered in FATA and more so, the petitioner belongs to North Waziristan Agency and he has crossed over the District of North Waziristan. As such, under the aforesaid mentioned letters, the petitioner is not entitled for the return of vehicle in his favour. As far as the permission of the DPO, North Waziristan through his written letter dated 26.05.2020 is concerned, the same when perused provides that the same was for District Waziristan and for down Districts for official purpose but however the said order is illegal in itself as the DPO has got no power to issue such like orders besides the same, if available, was for District North Waziristan and no official purpose of the presence of the vehicle in this District was explained. U/s 185 of The Customs Act, 1969, the court of Special Judge Customs has been established and the said court has got the exclusive jurisdiction to deal such like matters under section 185-B of the ibid Act and as such the

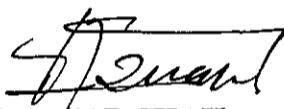

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petitioner has wrongly approached the court of Judicial Magistrate-I, Orakzai for the redressal of his grievance.

(4). Thus, in the light of above, it is held that the impugned order of the learned court is well reasoned, supported by legal and factual grounds and is by no means suffering from any legal infirmity to call for interference of the present court therein. Therefore, the revision in hand stand dismissed being meritless leaving the impugned order of the trial court as it is.

(5). File be consigned to Session Record Room after its necessary completion and compilation.

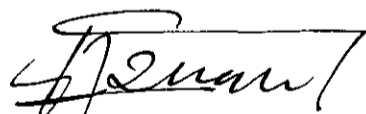
Announced
15.01.2021


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CERTIFICATE

Certified that this judgment consists of four (04) pages. Each page has been read, corrected where-ever necessary and signed by me.

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