JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

W.P. NO. 2799 of 2025

SAAD SOHAIL

Vs

IFTIKHAR ALI AND OTHERS

Petitioners by	**:**	**M/s Shah Khawar, Rahmat Ullah and Malik Zeeshan, Advocates for Petitioner.**
Respondents by	**:**	**Mian Asif Aman, Advocate for Respondent No. 2.** **Mr. M. Umer, State Counsel.** **Mr. M. Ishaq, Inspector, P.S. I-9, Islamabad.**
Date of hearing	**:**	**09.10.2025**

MUHAMMAD AZAM KHAN, J.

1. The Petitioners have filed the instant Criminal Miscellaneous Petition, seeking setting aside of the Order dated 01.07.2025 **("Impugned Order")** passed by the learned Additional Sessions Judge, Islamabad-West whereby the Petition filed under Section 22-A & B of the Criminal Procedure Code, 1898 **("Cr.P.C"),** filed by the Petitioner/Complainant, has been dismissed.

2. The facts leading to the filing of the present Petition are that the Petitioner, is allegedly the exclusive owner of a Honda Civic. The vehicle was temporarily entrusted to Respondent No. 2 [Tariq Mahmood], who then conspired with Respondent No. 1 [Iftikhar Ali] to fraudulently transfer its ownership using forged documents and a fake video call to impersonate the Petitioner. The Excise & Taxation Officer nullified this transfer and directed the police to take criminal action. Despite clear evidence of cognizable offences and the Petitioner's repeated complaints, the police have failed to register an FIR. The Petitioner's subsequent application under Section 22-A of the Cr.P.C. was also dismissed by Respondent No. 4 [Justice of Peace] vide the Impugned Order, leading to this Constitutional petition for redress.

3. The learned counsel for the Petitioner argued that the Impugned Order is a gross miscarriage of justice, resulting from a fundamental misapplication of the mandatory nature of Section 22-A Cr.P.C. The core grievance is the police's

refusal to register an FIR despite overwhelming evidence, including an ETO order and a DDR entry, which collectively establish a *prima facie* case of serious cognizable offences like fraud, forgery, and criminal breach of trust. The learned Justice of Peace erred by treating its power as discretionary, prematurely adjudicating facts, and mislabeling the criminal conspiracy as a civil dispute, thereby ignoring binding Supreme Court precedents. Furthermore, the non-speaking order, which relies on un-rebutted police comments and erroneously suggests alternate remedies, violates principles of natural justice and constitutional mandates. This has infringed the Petitioner's fundamental rights, leaving him with no other efficacious remedy than to seek this Court's intervention to compel the police to perform their statutory duty under Section 154 Cr.P.C.

4. The learned counsel for Respondents No. 1 and 2 supported the Impugned Order, arguing the Petition is an abuse of process that improperly criminalizes a purely civil dispute over vehicle possession and ownership. They contend the Petitioner has alternate, efficacious remedies available through the civil Courts to establish his title. The learned Justice of Peace correctly exercised discretion under Section 22-A Cr.P.C., finding no *prima facie* evidence of criminal intent to justify police intervention, as the transaction between the parties was of a civil nature. The Impugned Order is legally sound and requires no interference.

5. I have heard the learned counsel for the parties and perused the available record with their able assistance.

6. The core of the controversy revolves around the ownership and lawful possession of the vehicle. The admitted fact that a civil suit is pending before the Senior Civil Judge, Peshawar, concerning the very same subject vehicle, is decisive. This Court is mindful of the settled legal principle that criminal law is not to be used as a tool for pressurizing a party in a civil dispute. The jurisdiction under Section 22-A Cr.P.C., while meant to check police inaction, cannot be invoked to initiate a parallel criminal investigation when the substantive rights of the parties are already being adjudicated by a competent civil Court.

7. Contrary to the petitioner's assertions, the learned Justice of Peace did not overstep his jurisdiction. The scope of inquiry under Section 22-A Cr.P.C. necessarily includes a preliminary assessment to determine whether the

information discloses a cognizable offence. In this regard, the findings of the court below are sound and logical. The production of the original registration book, master card, alternate key, and maintenance bills by Respondent No. 1 creates a serious doubt regarding the petitioner's claim of a simple, temporary entrustment. These items are typically held by an owner, not a temporary bailee. This factual analysis was essential to determine the true nature of the dispute.

8. The Petitioner's reliance on the ETO's order is misplaced. The order cancelled the transfer application but fell short of making a definitive finding of impersonation or forgery. Crucially, as noted by the court below, "no signatures or thumb impressions of the petitioner were forged on the transfer application." Furthermore, the Undertaking (اقرار نامہ) submitted by Respondent No. 1 to the Motor Registration Authority, dated 18.11.2024, is a significant document. In it, Respondent No. 1 unequivocally claims the vehicle is in his use and assumes full legal and moral responsibility for it. For easement of reference same is reproduced hereunder:-

"اقرار نامہ / انڈر ٹیکنگ

منکہ: افتخار علی ولد علم دین (شناختی کارڈ نمبر۔35201-4856891-5) ساکن مکان نمبر E-910، گلی نمبر 11، محلہ نشاط کالونی، لاہور کینٹ کا ہوں اور تصدیق کرتا ہوں کہ گاڑی Honda Civic رجسٹریشن نمبر BDS-86 ماڈل 2024، ہارس پاور 1498cc چیسس نمبر NFBFE168XPR008055 انجن نمبر L15BG79108038 میرے زیر استعمال ہے۔ گاڑی کسی قسم کی غیر قانونی سرگرمیوں میں شامل نہیں رہی ہے، اور ہر قسم کے لین دین سے پاک و صاف ہے اگر گاڑی کسی بھی غیر قانونی کاروائی میں شامل پائی گئی یا کوئی بھی لین دین بقیہ ہوا تو میں ہر لحاظ سے قانونی / اخلاقی طور پر ذمہ دار ہوں گا۔ لہذا گاڑی کو میرے نام ٹرانسفر کرنے میں کوئی امر مانع نہ ہے۔ لہذا تحریر لکھ دی ہے تا کہ سند رہے اور بوقت ضرورت کام آوے۔

المرقوم 18.11.2024

من مقر: افتخار علی ولد علم دین
(شناختی کارڈ نمبر۔35201-4856891-5)
ساکن مکان نمبر E-910، گلی نمبر 11، محلہ نشاط کالونی، لاہور کینٹ"

This document, on its face, does not exhibit impersonation but rather presents a competing claim of right, which reinforces the civil character of the dispute. The allegation of a fraudulent video call remains an unsubstantiated assertion.

9. The Impugned Order of the learned Justice of Peace is a speaking order that considered the material presented by both sides. It correctly identified that the mere cancellation of a vehicle transfer application by the ETO does not, in

and of itself, constitute a cognizable offence. The Court rightly concluded that the Petitioner failed to place before it material that unequivocally disclosed the commission of a cognizable offence, as the evidence pointed overwhelmingly towards a contested claim of ownership and possession.

10. For the foregoing reasons, this Court finds that the Impugned Order dated 01.07.2025 passed by the learned Justice of Peace does not suffer from any jurisdictional error, perversity, or legal misdirection. The Petition is devoid of merit and is accordingly dismissed. The parties are left to pursue their remedies in the pending civil suit.

(MUHAMMAD AZAM KHAN)
JUDGE

Sajid/--