

**IN THE COURT OF SPECIAL JUDGE  
ANTI-CORRUPTION (CENTRAL) HYDERABAD**

*Case No. 91/2024*

State.....Vs..... **Syed Momin Shah & others**

**Crime No.20/2023**  
PS FIA Hyderabad  
U/s: 5(2) PCA-1947, 156-Customs  
Act 1969 r/w 109 PPC

Mr. Ayaz Hussain Tunio for Applicants.

Ms.Salma Bughio A.D(L) for The State

**ORDER**

**15.02.2025.**

By this order, I dispose of application under section 249-A, Cr.P.C moved by counsel for applicants/accused persons namely 1) *Iqbal Ahmed*, 2) *Akhtar Hussain*, and 3) *Zulfiqar Ali* in crime No.20/2023, offence u/s 5(2) PCA-1947 r/w Section 156 of Customs Act 1969 r/w Section 109 PPC, registered at PS FIA Crime Circle *Hyderabad*.

Notice of it was extended to AD (L) & IO who is in attendance.

For comprehending the list among the parties the contents of FIR are reproduced as under:

Pursuant to Enquiry No.79/2023 of FIA Crime Circle Hyderabad, registered on receipt of credible information from the sources that Syed Momin Shah, Custom Inspector has large number of expensive weapons licensed and un licensed, Non-custom paid vehicles, Jewelry and Hunting Animal Trophies at his home, which are beyond his known source of income.

Subsequently, a raid was conducted at the house of accused Syed Momin Shah House No.18, Mohalla Amil Colony Heerabad Hyderabad in presence of Mashirs by a team of FIA Crime Circle, Hyderabad comprising of Assistant Director FIA Zubair Akbar, SHO/SI Masroor Ahmed, HC Alam Shah, FC Dil Murad and others. The accused Syed Momin Shah S/o Syed Tasaduque Hussain was also present at his house, thereafter house was searched in presence of Mashirs.

**1. SEIZURE MEMO DATED 19.09.2023 PREPARED ON THE SPOT.**

The raid resulted into recovery of following articles pertaining to possessing assets beyond means as alleged smuggled items which were taken into FIA possession under proper seizure memo, prepared on the spot in presence of Mashirs/Witnesses viz Syed Muzamil Shah (brother of Syed Momin Shah) and Syed Muhammad Hussain (nephew) and Assistant Director FIA Zubair Akber, SHO/SI Masroor Ahmed, HC Alam Shah, FC Dil Murad.

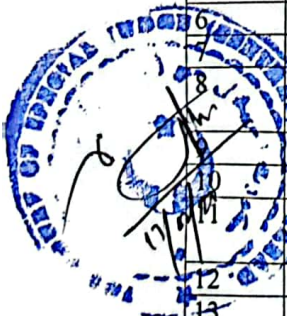
S.No :	Weapon Name & Number	Caliber	License #	License Holder :
1	Colt M4 (BP049817)*	.22LR	10139922493	Azam Mirza
2	Walther G22 ( WP010328 )*	.22LR	49867733478	SMH
3	Winchester (575029)*	.22LR	5134/TMK	SAAS
4	Baikal ( 0716102095 )*	.22LR	44783534510	SAAS
5	GSG AK-47 ( B030076 )*	.22LR	883/NWB	SMH
6	Austria ( S08909 )*	.22LR	62836355870	Yaseen



	Remington ( JKR34 )*	.22LR	DC/TA/13/253	SAAS
8	Brno (OLD) ( 197522 )*	.22LR	2451.Quetta	SMH
9	BRNO (new) ( 151926 )*	.22LR	N/A	
10	CZ 457 T.Hole (G100660) To Aba (3)*	.22LR	99722144738	SAAS
11	CZ 457 MTR (G056900) (2)*	.22LR	54190348630	SAAS
12	CZ 457 MDT (G320676)*	.22LR	55385353067	SAAS
13	RUGER (0019-12775) To Aba (1)*	.22LR	64367277734	
14	CZ 455 (A855848)*	.22WMR	55267721074	SMH
15	Anschutz ( 693134 )*	.22 HN	51722299754	SMH
16	Tikka ( 550201453 )*	.223	95900788286	SMH
17	CZ ERGO 600 (G153144)*	.223	45375409206	SAAS
18	AR-15 (12C00833) With rifle*	.223	2264.DDCO/07	SMH
19	SAKO AII ( 363412 )*	.243	44011270893	SAAS
20	benelli LUPO ( AR019317K)*	.308	89003923043	SMH
21	ZEV ( ZLF00835 ) With Rifle*	.308	83867505121	SMH
22	Remington M7 (S7649469)*	.308	04242209721	SMH
23	Remington R700 ( A6808924 )*	.308	564/NWB	SMH
24	Weatherby ( V78431 )*	.270	92265248120	SAAS
25	Winchester ( 408204 )*	.270	92289148242	SAAS
26	MP-5 ( C24591 )*	9mm	1326.HM.TA.12	SAAS
27	RUGER (703-63415)*	.22WMR	81496437945	SAAS
28	RUGER Mini-14 (18619157)*	.223	N/A	
29	Winchester F.W 70 (1634058)*	.270	61239618557	SAAS
30	Browning X BOLT (JP73734YY354)*	.308	92410129542	SAAS
31	ShotGun N486802V (Without License)			
32	22 LR Weihrauch 42843			
33	44 Rifle (845)	.44	Not available	

### SHOTGUNS

S.No :	Weapon Name & Number	Caliber	License #	License Holder :
1	Silver Pigeon I ( V008715 )*	12Ga	2056/HYD.CI TY	SMH
2	Beretta 303 ( N77068E ) To Aba (1)*	12Ga	72085683037	SMH
3	Franchi O/U (Old)(5101849)*	12Ga	03866355414	SAAS
4	BERETTA 303 (M83665E)* 2 barrels	12Ga	2973-HM/2011	Azam Mirza
5	Supergrade ( PWK006362 )*	12Ga	31265922422	SAAS
6	Belgium ( D854 )*	12Ga	08292250684	SMH
7	Silver Point ( 74083 )*	12Ga	29440944741	SAAS
8	CZ ( 48042 )*	12Ga	1077/HM/TA1 3	Adil Rafi
9	Benelli 828U (BS038964Z20)*To Aba (2)	12Ga	03/2021	SMH
10	Teknys 26" (AA400209) To Aba (4)*	12Ga	76032388531	SMH
11	BERETTA A300 Outlander (RUP109874)*	12Ga	01/2021	
12	Dayne ( 618398 )*	12Ga	N/A	N/A
13	J.J.Saraskota ( 137380 )* To Aba (6)	12Ga	41349910132	SMH
14	W.W.Greener ( 66424 )*	12Ga	N/A	N/A
15	Huglu (17s5413)* To Aba (7)	12Ga	01743423556	SMH
16	Aya II (507493) To Aba (8)*	12Ga	02/2021	SMH (QUETTA)
17	BERETTA 686 (47422B)	12Ga	2508	
18	WISCHO (802555)*	12Ga	89399494265	Yaseen
19	Teknys 26 AA435898 Shot Gun	12Ga	410	SMH
20	Haskwarna (49012)	12Ga	3250	Khuwaja Muhammad Khan



21	Dayrne (618398)		Not available
22	Mannlicher (7032)		Not available
23	ED Gun (3056)	6,35 mm	Not available
24	Artmis (PR900W)	.22	Not available
25	Air Gun (E0318Y04364)	.22	Not available

### PISTOLS

S.N :	Weapon Name & Number	Caliber	License #	License Holder:
1	CM9 (T110211662086)*	9mm	36721328214	SAAS
2	Beretta Neos (R31534)*	.22LR	5176/TMK	SAAS
3	<b>Revolver (1254026)* To Aba (2)</b>	<b>.32</b>	<b>N/A</b>	<b>SMH</b>
4	KelTec (FGHJ59)*	9mm	39763471165	SMH
5	Colt 1911 (2383899)* To Aba (3)	.45	01154129722	SMH
6	Austra (813217)*	.32	Not available	
7	Austra (356899)*	.380	Not available	
8	ARMENIS 766850	.22LR	Not available	
9	Arminius (1317943)		Not available	
10	Tourus Armas (ABM309265)		Not available	

- ✓ Pakistani Currency Rs. 496,000/-
- ✓ **03 Watches** i.e. One Edox, One Victorinox and One Archi.
- ✓ **Jewelry:** - 23 Bangles, 03 Kara, 03 Bracelet, 09 Haars, 03 Head Jhoomar, 16 Boonday, 01 Nath & 02 Tikka, 02 Biscuit (10 gram+15.5 gram), 05 Rings, 02 Biscuits each of 01 gram, locket Dori.
- ✓ Original Arms License No. DC-1077/HM/TA/13 in the name of Adil Rafi.
- ✓ Original Arms License No. 8939939265 in the name of Muhammad Yaseen.
- ✓ **One Laptop** Desktop-BS3QAON with 4 GB RAM, 1395 GB Hard Drive, Device ID No. 88EB9616-BB1E-45F2-DDD6-AB1C31B39FF6.
- ✓ **04 VEHICLES:** (1) Toyota Land Cruiser V-8 Registration No.BM-7272, Chassis No. URJ2024012223, (2) Toyota ESquire Reg No.CZ-1810 Engine 1790 CC (3) Vitz-2007 Model, SCP90-5063840 (Non-Custom) (4) Hilux V-6, Model GGN25R-PRAD KQ Engine No.1GR-FE, 3956CC (Non custom paid).
- ✓ **30 Hunting Trophies:** One Ibex full mount, One Orex Deer, One Ostrich, Three Ibex shoulder mount, Five Chinkara Deer, Three Blessbock, Three Wild beast, One Kudu Deer, One Eland Deer, Two Lions, One waterbuck, One Giraffe, Two Giraffe leg lamps, One hard beast, One Sabel Deer, 2 Zebras, One Impala Dear.
- ✓ **52 Original Arms Licenses.**
- ✓ **07 sealed Cartons** of 8 number cartridge of Wah Cantt.
- ✓ **31 Boxes** of 4 number Cartridge (Kartoos).
- ✓ **150 Lose** 4 number cartridge (Kartoos) of short gun.
- ✓ **400 rifle cartridges** in two boxes.
- ✓ **4500 bullets** of .22 in Box No. 1.
- ✓ **3000 Bullets** of .22 rifle in Box No. 2.
- ✓ **500 Bullets** of 9mm.
- ✓ **260 Bullets** of rifle 308 in Box No. 3.
- ✓ **1400 mixed bullets** of rifle in Box No. 4.
- ✓ **02 Mobile Phones,** 1) Samsung Galaxy Model No.SM-A 305F/DS, Serial No.R58M733RTPE, IMEI: 358384101523799, IMEI:2: 358384101523796, SIM:0321-8744475. 2).OPPO-A5S, Model CPH1909, IMEI:1: 860217044234416, IMEI:2: 860217044234408. SIM1: 0301-8371770, SIM2: 0333.2774030.
- ✓ **PS4 Sony Model CUH1216B.**



Besides the involvement of the accused in accumulating above referred assets which are clearly beyond his known source of income, he appears to be involved in the illegal act of smuggling. He was issued Notice U/s 171 Customs Act 1969, wherein

he was informed of the grounds of the above mentioned seizure and his arrest. He was also asked in the said notice to provide justification of possessing the aforementioned Vehicles, Weapons and Hunting Animal Trophies but the accused failed to furnish any plausible explanation of keeping/possessing such huge quantity of aforesaid items. His involvement in the illegal act of smuggling will be determined during the course of investigation.

Hence, prima facie, case is made out against accused Syed Momin Shah, Inspector Customs Department for committing offence punishable under section U/s 5 (2) PCA 1947, Section 156 of Customs Act 1969 r/w 109 PPC, hence, instant case is being registered on the orders of competent authority vide letter No. FIA/DSK-II/ENQ-79/2023/HYD/B-7075-76 dated 19/09/2023 duly endorsed by the Additional Director FIA Crime Circle Hyderabad vide letter No.FIA/HYD/ENQ-79/2023/ 10267-69 dated 19/09/2023 against the accused government official of Custom Department namely Syed Momin Shah S/o Syed Tassaduq Hussain R/o House No.18 Mohalla Amil Colony Hirabad Hyderabad, holding CNIC No. 41303-1675861-5. Whether the weapons seized were licensed or otherwise will be determined during the course of investigation and in case weapons are found to be unlicensed in nature, separate cognizance will be taken under the relevant law. Original FIR is submitted before the Hon'ble Court of Special Judge Anti-Corruption (Central) Hyderabad.

Counsel for the applicants/accused argued that the names of the accused do not transpire in the FIR. There is double jeopardy as such the case is hit U/S 403 of Cr.P.C, Article 26 of the General Clauses Act, and Article 13 of the constitution of Pakistan. He took third ground that there is no written complaint or ocular evidence on the record connecting the accused with the commission of the offense. Even at the initial stage application for their acquittal can be filed, finally adjudicated for acquitting the accused. There is no chance or probability of the conviction of the accused persons as forensic evidence is also shaky and the same is negated by none collection of CDR of the accused persons therefore, application may be allowed.

Learned A.D(L) argued that forensic evidence is available on the record, there is ocular, documentary, and circumstantial evidence available on the record and prosecution can never be gagged at the initial stage, as Article 10-A of the Constitution of Pakistan, stipulates that everyone should be given full, reasonable and fair chances of hearing. In case, this application is allowed then the prosecution will receive a fatal blow which will cause irreparable loss to the prosecution, same be contrary to Article 10-A of the Constitution. There are bright chances of conviction of all the accused persons, therefore, the application may be declined, finally, the prosecution may be allowed to adduce the evidence thereby declining the application.

During hearing the application, I perused the entire record, wherein, each accused person's role, liability and evidence in the possession of prosecution were scanned minutely, therefore, on the following grounds and reasons, I allow the application of applicants/accused Iqbal Ahmed, Akhtar Hussain and Zulfiqar Ali *and*



*all those accused persons who are present on bail or absconders, they are also extended the concession of order u/s 249-A Cr.P.C without moving application on their parts, they are acquitted in above mentioned FIR, only in Sections 5(2) PCA-1947 and 109 PPC.*

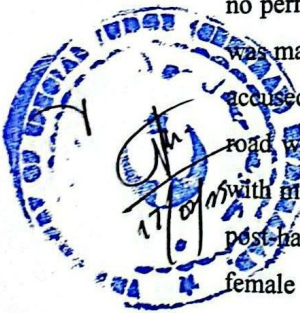
The meticulous perusal of the record reflects that the seizure memo was prepared on 19-09-2023 at 06:00 am (morning time) in the house of the accused, where, four persons are shown Mashirs of the seizure of the articles, out of which two are brothers of the accused Momin Shah namely Syed Muzamil Shah while two male federal constables of the FIA persons namely HC Alam Shah and FC Dil Murad.

On query by this court, S.I Ghulam Akbar Soomro informs that a raid was conducted at the house of accused Momin Shah around 12:00 am of the night of 19-09-2023, he further describes that Sindh Police females were with him but no female employee of FIA was with them as on upper level they talked to SSP who provided Sindh Police help, but in entire case, in any case diary, there is no mention that SSP Hyderabad's assistance was sought. Any verbal assistance cannot be demanded, same is contrary and negated by the record. In the interim charge sheet so also challan, there are total five witnesses namely 1) A D FIA Zubair Akbar, 2) SHO Masroor Ahmed, 3) HC Alam Shah, 4) FC Dil Murad, and last 5) Ali Gohar Samejo of the customs department.

Article 14 of the Constitution of Pakistan stipulates that the dignity of a man and the privacy of a home shall be inviolable, but it seems that the Constitution of Pakistan does not apply to the FIA, in the present case who at midnight time, entered into the house of a custom employee (who is a Syed by caste) without the association of any female constable of FIA or even of Sindh Police. It is very much strange that no permission was sought from the concerned Magistrate or even no written request was made to the judicial authorities that FIA wanted to conduct a raid at the house of accused Syed Momin Shah. It is not the case of FIA that they were standing on the road where got spy information that one unknown accused person is slipping away with money and valuable property gotten through illegal means, as such FIA was in post-haste so it was not found necessary to seek permission from the magistrate or female could not be associated on account of odd hours of night, but in the present case, the case was based on source information and inquiry being No.79/2023 was pending.

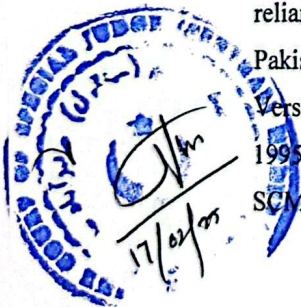
Despite pendency of inquiry and source report, Article 14 of the Constitution of Pakistan, 1973 was flouted by the agency showing no respect and regard for the home and no association of any female witness reflects that no respect for the privacy and law was shown by the agency.

Secondly, I had also perused the source report which is on a simple page, wherein, the Assistant Director FIA had written to the Additional Director FIA Crime



Circle Hyderabad, that credible information was received that Syed Momin Shah had accumulated wealth/assets/smuggled/contraband illegal item beyond his legal means of income like weapons, ammunition, vehicles, jewelry and some expensive including hunting trophies. It is necessary to mention here that this letter was typed/computerized bearing the signature of Assistant Director Zubair Akbar Yousafan on white page, there is no mention of the date, month, and year on the source report so also source report is not printed on the official page. Above all it is also not duly signed by the worthy Additional Director FIA Crime Circle Hyderabad. It seems that the Additional Director FIA had not permitted to FIA team to conduct the raid at odd hours of the night in the house of accused Momin Shah as such permission for conducting a raid is not available on the record as only two letters bearing no.10267-69 and B-7075-67 dated.19-09-2023, wherein, permission is sought for lodging the FIR and handing over papers to S.I Ghulam Akbar Soomro for inquiry/Investigation purposes. Therefore, it seems that the raid at the house of accused Momin Shah is against the constitution, and the source report is managed one.

Thirdly, FIR was lodged U/S 5(2) PCA-1947, wherein, punishment is provided while section 5(1) PCA defines that any public servant who accepts or obtains or agrees to accept from any person any gratification and in section 1 sub-rule (b) if public servant accepts any valuable thing from any person then the offence of criminal misconduct is alleged to have been committed by the accused public servant. But in inquiry, no private person dealing with any kind of business came before the FIA that accused Momin Shah, in the presence of such witnesses, on a specific date, month, year, on a particular time and specific spot/ place accused Momin Shah had either demanded or accepted or taken any illegal gratification from any victim or person. Whenever, there is no witness or victim or complainant aggrieved from the actions, deeds, misdeeds or demands of accused Momin Shah based on an unreliable and managed source report accused cannot be penalized for that offence. I place my reliance on remarkable judgments rendered by the Honorable Supreme Court of Pakistan in 2008 S C MR 1221 re GHULAM QADIR and 2 others----Appellants Versus THE STATE---Respondent, in another case re Mehmood Ahmad v. The State 1995 SCMR 127 so also in the last case re Asghar Ali alias Sabah v. The State 1992 SCMR 2088.



Another section applied by FIA in FIR is section 156 of the Customs Act 1969 for which this court lacks the jurisdiction as a Special Custom Court had been created where, any allegation matter pertaining about Customs is to be submitted before the Customs Court. As u/s 185(A) cognizance of any custom offence or matter is to be taken by that special Custom Court. It is alleged in the FIR that the imported weapons, non-custom vehicles, and non-custom trophies case is to proceed before the Special Court and already, separate challan had been submitted before that special court, whereas, this court lacks the jurisdiction for adjudicating that controversy among the accused and prosecution therefore, this court lacks the jurisdiction to the extent of

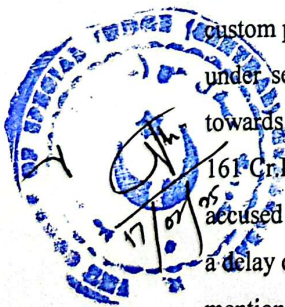
Fifthly, it is alleged that accused Momin Shah had kept, accumulated and possessed pecuniary resources or property disproportionate to the known source of his income but this definition, story, and sections are not available in the prosecution file. Prior to it, (I take judicial notice under article 112 of the Qanoon-e-Shahadat order, 1984 as I am competent so I take judicial notice of the case pending on the file of this Court) as already, same kind of special case No.08/2022 which took birth from crime No. 03/2022, wherein, FIR was lodged by the same S.I Ghulam Akbar Soomro U/S 5-C Prevention of Corruption Act 1947, is pending on the file of this court whereas, this FIR was lodged on 26-02-2022 in that FIR and challan, a total 09 moveable and immovable properties of accused Syed Momin Shah are shown either in the name of accused Syed Momin Shah or his dear and near family members including wife, male/female issues and brothers. S.I Ghulam Akbar Soomro or FIA had not collected any proof that after submission of challan on 12-12-2022, in crime no.03/2022, accused Momin Shah had accumulated any other moveable or immovable property. Admittedly, in the present case, only weapons, trophies, and hunting articles were found which are old and same are not newly purchased by accused Momin Shah as same was kept in his house by him, therefore, this version of the investigation agency is negated on the record and same is belied by the previous FIR No.03/2022 lodged against accused Momin Shah. It is necessary to mention here that the charge was framed in crime No.03/2022, on 17-03-2023 by predecessor of undersigned.

Sixthly, Learned A.D(Legal) exhorts that the prosecution be given a chance to adduce evidence against the accused persons recorded based on 161 Cr.P.C statement of the witnesses. Firstly, the prosecution recorded statements of accused persons who stated that customs officials used to demand and take bribes from them. But any statement recorded before the police of any accused is inadmissible under articles 38 and 39 of Qanoon-e-Shahdat Order, 1984. Above all witnesses/ accused persons whose statements were recorded by I.O namely Akhtar Hussain, Iqbal Ahmed, Imran Yousuf, Muhammad Nadeem, Muhammad Umair, Aziz, Muhammad Abid, Shehzad Teejani, Imam Hussain, Jai Parkash, and Jesa Ram are vehemently denying that their statements were recorded by the I.O as per their consents, choices, wishes and voluntary but at FIA Police Station they went for joining the investigation where their CNICs were obtained and under threats, they put their signatures.

PW Mehboob Khan, Faheem Akhtar, and Rizwan Khan 161 Cr.P.C statements were recorded on 25-10-2025 which were recorded after a delay of 35 days from the lodging of FIR. All these three PWs narrated before the Police in their 161 Cr.P.C statements, that custom authorities used to take illegal gratification from the transporters but none of the witnesses had narrated that, specifically accused Momin Shah, custom officials Iqbal Ahmed, Akhtar Hussain, and Zulfiqar Ali were given illegal gratifications by them. It is also not mentioned in the 161 Cr.P.C statements that



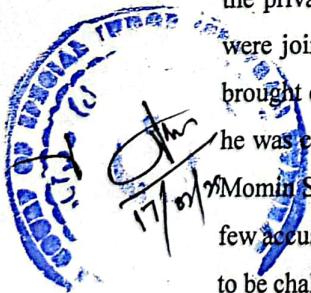
before whom on what particular time, specific date, month, year, and particular spot, illegal gratification, bribe, or any consideration was taken, demanded, or accepted by any public servant from them. In case, these three PWs are allowed to be examined, it will be a waste of time, energy and an attempt to enliven the dead horse as firstly, no specification is shown, secondly, there is a delay in recording 161 Cr.P.C statements of the PWs, of 35 days, and finally, there is no identification parade of any accused person, before these three witnesses. Delay in recording the statements of PWs is fatal to the case of the prosecution, I place my reliance on the case of Abdul Khalid vs. the State 1996 SCMR 1553, in the case of Muhammad Afzal vs. the State 2018 Lahore High Court 3430, Gulsher, etc Vs the State 2015 YLR 1342 and Nizamuddin and others Vs The State 2011 SBLR 9845. Another set of prosecution witnesses consists of PWs Danish Ali Sahito officer in the Arms Branch D.C office Hyderabad Umair Ali, Deedar Ali officials in D.C Tando illahyar, Iqbal Ahmed Solangi, Arms Section dealing in D.C office Jamshoro, Arms dealing branch D.C office Mirpurkhas. PWs Pervaiz Ahmed and Haris Khan are employees in the registration of vehicle department while Haris Khan and Meer Aijaz Ali Talpur are the sellers of the vehicle, actually these witnesses are narrating about having licenses or unlicensed of weapons secured from the house of the accused Momin Shah. Here, case of license or unlicensed possession of weapons is not pending on the file of this court. It is also necessary to mention here that this court had never stopped the investigation officer from lodging different FIRs for possessing unauthorized weapons or not. But he remained calm and satisfied, therefore, in case, the prosecution is given a chance to adduce their evidences before this court, same will be immaterial and without any purpose, object and same will never improve the case of prosecution leading towards conviction. Another set of witnesses consists of Syed Ameer Ali Shah, Feroze Khan Solangi, Hashim Ali, Farooque Ahmed Khaskheli, Aneel Kumar, Mst. Tabassum, Sindhu Khadim, and Junaid Ahmed are Custom officials and their evidence is only to the extent of non-custom paid/unpaid vehicles, arms, ammunition, and trophies, and same is punishable under section 156 of the Customs Act 1969, therefore, their evidence cannot lead towards the conviction against the accused persons. One of PW Abdul Kaleem, in his 161 Cr.P.C statements was recorded even though he did not mention the name of the accused Momin Shah. His statement u/s 161 Cr.P.C was recorded on 02-02-2024 after a delay of 04 months of lodging the FIR. It will be not proper to reproduce the above-mentioned citations, wherein, statements of witnesses recorded with delay were found to be fatal for the prosecution. Finally, in the challan, names of witnesses are shown A.D Zubair Akbar, SHO Masroor Ahmed, HC Alam Shah, FC Dil Murad, Ali Gohar Samejo who raided the house of accused Momin Shah and except making the raid, no other piece of evidence was either witnessed or collected by them in their presence. Two employees of FIA in their presence, non-custom weapons, trophies, vehicles and etc, moveable were secured but their evidence is to the extent of section 156 of the Customs Act and not to the extent of section 5(2) of the Prevention of Corruption Act, 1947.





Seventhly, on another point, on which, the case of the prosecution is based is about the recovery of two mobiles and one laptop from the possession of accused Momin Shah. The Laptop was sent for forensic expert opinion but forensic expert, on 30-09-2024, submitted the report narrating that no relevant data was found as per SOPs defined. The forensic expert gave clear chit that no incriminating piece of evidence was found in the laptop recovered from the possession of house of accused Momin Shah. From two mobile chats data were found in the mobile of accused Momin Shah but, in the entire forensic report there is no mention that accused Momin Shah had demanded any sort of illegal gratification from any dealer of the grocery items, shopkeeper, transporter and even the private accused had not alleged by moving a written application before the FIA that Momin Shah and other custom officials had demanded bribe or they had accepted illegal gratification from them. Above all, chain of evidence is breaking and missing as I.O alleges that a conversation was made by accused Momin Shah with other officials and private accused persons. But during the course of enquiry/investigation I.O neither secured the mobile from the possession of the co-accused nor even he could collect CDR showing that through digitalization, entire net of corruption among the accused was in existence. The collection of data of CDR was doable and easy job for the I.O but for what reasons he did not collect, the same is best known to him. It is further alleged that in forensic evidence accused used to hire the services of his private driver namely Sami but the investigation officer also failed in getting the CDR of absconding accused Muhammad Sami who is the driver of accused Momin Shah. I.O traced and found his mobile no.03361212790 but he did not get the CDR of mobile number 03361212790 connecting thereby piece of evidence could strengthen the case of the prosecution that the accused Momin Shah was in contact with the dealers through a private driver accused namely, Muhammad Sami. I had also perused the conversation on the mobile, in conversation there was a conversation with persons namely Badshah, Farhan Driver, Malik Taufeeq Khan, Amesh Gul, and one Danish PRO of DIG Mirpurkhas, Moti, Malik Saleem, Hamid Sepoy but these persons were not joined either as accused or the witnesses. A few of the private persons who were having conversations with the accused Momin Shah, were joined as accused in the case, and even, one of the accused person who was brought on a chair before this court from the date of my posting namely Abdul Aziz, he was challaned before this court on the basis that his chat was found with accused Momin Shah. It is inconceivable that on what basis the investigation officer found the few accused persons fit for challan while most of them in conversation were not found to be challaned, this exercise on the part of I.O. can be defined by I.O himself as same is not available in the Police file.

Eighthly, criminal record of the accused Jesa Ram was collected by the I.O. but in all the cases lodged against him at Umerkoat district Police, in all those cases I.O. himself collected the record showing that the accused Jesa Ram was acquitted in all cases. Those cases lodged against Jesa Ram, in which he was acquitted and has no



connection and relevancy with this crime showing that Momin Shah and other official persons had accepted any illegal gratification from Jesa Ram. The Honorable Supreme Court of Pakistan in PLD 2022 Supreme Court 562 in the case of Abbas Hyder Naqvi and another petitioner Vs the Federation of Pakistan had held that 04 grounds should be there for allowing application u/s 265-K or 249-A Cr.P.C when there is no probability of the conviction (i) that even if the facts alleged by the prosecution are taken to be true on their face value, they do not make out/constitute the commission of any offence by the accused; (ii) that there is no evidence or incriminating material on record of the case in support of the commission of the alleged offence by the accused; (iii) that the evidence or incriminating material collected during investigation in support of the commission of the alleged offence and proposed to be produced during trial is insufficient and, even if recorded, will not sustain conviction of the accused, of any offence in the case; and (iv) that the prosecution evidence so far recorded does not make out a case for conviction of the accused, of any offence in the case and the remaining prosecution evidence, even if recorded, will not improve the prosecution case against the accused in any manner. The Honorable Apex Court had acquitted the accused persons from the charge. The prosecution has never been muzzled by this court but once it comes to the notice of this court that there is no chance or probability of conviction of the accused then, the same powers are to be exercised as abuse of the process of court is to be stopped as there is no chance or probability of conviction of any of the accused persons and for securing the ends of justice by placing my reliance on 2000 SCMR 122, 1544, PLD 1999 SC 1063, 2013 P.CR.L.J 214, 2009 P.CR.L.J 36, 2012 P.CR.L.J 999, 2006 MLD 1489, PLD 2008 KARACHI 310, 2004 P.CR.L.J 1070 2005 P.CR.L.J 2022.2015 P.CR.L.J 205 SINDH, 2015 P Cr. L J 205 [Sindh], I hereby acquit the accused persons namely Syed Momin Shah s/o Syed Tasadduq Hussain , Akhtar Hussain s/o Ghulam Qadir, Zulfiqar Ali Jamali s/o Tharo Khan, Iqbal Ahmed Mangrio s/o Lal Muhammad, Muhammad Hussain Hashmani, Muhammad Umair s/o Abdul Razzaque, Abdul Aziz, Muhammad Abid, Shahzad Teejani, Imam Hussain s/o Rasool Bux, Jai parkash s/o Shewak Ram, Jesa Ram s/o Ghansham, Saeed Farooqui s/o Jalil Farooqui, Imran Yousuf s/o Muhammad Yousif, Muhammad Nadeem Qadri s/o Muhammad Zakria, Adnan Qureshi s/o Ghulam Mohi Uddin Qureshi and also absconder accused Muhammad Sami s/o Muhammad Saleem from the crime No.20/2023 u/s 5(2) PCA 1947 but in section 156 of Customs Act 1969 accused are facing the trial before the Special Customs Court, therefore, they had to face the trial before that court as this court lacks the jurisdiction for deciding that fate of the case but only in section 5(2) PCA 1947, they are acquitted u/s 249-A Cr.P.C. All accused persons are present on bail, their bail bonds stand cancelled and sureties be discharged.




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Whatever case property had been attached and released on Super Dari basis be handed over to the accused persons after expiry of the appeal period and subject to the conditions that same approval is given to them by the Honorable Special Custom Court Karachi.

Announced in open court.

Given under my hand and seal of this court, this 15<sup>th</sup> February 2025.



(ASHOK KUMAR DODEEJA)  
Special Judge (Central) Hyderabad.

