IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN, GILGIT.

Before:-

Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.

Criminal Appeal No. 08/2017
In
Cr. PLA No. 42/2016.

National Accountability Bureau   **Petitioner.**

Versus

Maqbool Hussain   **Respondent.**

PRESENT:-
1. Mr. Amin Khan, Special Prosecutor NAB Gilgit for the petitioner.
2. Mr. Muhammad Abbas Khan Advocate-on-Record for the respondent.

DATE OF HEARING: - 15. 06. 2017.

JUDGMENT.

This Criminal petition for leave to appeal has arisen out of the impugned judgment dated 09.09.2016 in Criminal Revision No. 14/2016 passed by the learned Chief Court whereby the said Criminal Revision of the respondent was allowed by directing the petitioner to handover the vehicle to the respondent without any delay by obtaining a simple undertaking from the respondent that he will produce the said vehicle before the learned Accountability Court as when so ordered. The petitioner being aggrieved by and dissatisfied with, filed this petition for leave to appeal. This court vide order dated 09.03.2017 issued notice to the respondent and the case was heard today.

2.   Mr. Amin Khan, the learned Special Prosecutor NAB Gilgit submits that the NAB authorities are entitled to seize the vehicle under Section 12 of National Accountability Bureau

Ordinance 1999. He also submits that there is only remedy available to the respondent i.e. to approach the learned Trial Court seeking superdari of the said vehicle within fourteen (14) days. Since the respondent has not exhausted the said remedy, he was not entitled for superdari of the said vehicle. Per learned prosecutor the respondent is neither the owner of the disputed vehicle nor the vehicle was recovered from his possession. He submits that the vehicle in question bearing registration No. BLNB-1608, Chassis No. KZJ-71-0004868, Engine No. IKZ-0639306 is the property of Zameer Abbas son of Sultan Mehmood resident of Nagaral Gilgit who is involved in a reference to the National Accountability Bureau authorities. The said vehicle was impounded with provisional Certificate in his name and it has been recovered from his possession during his arrest by the National Accountability Bureau authorities. He submits that the learned Chief Court fell in error while passing the impugned judgment dated 09.09.2016 in Criminal Revision No. 14/2016, hence, the same is not tenable and liable to be set aside.

3.   On the other hand, the learned Advocate-on-Record for the respondent supports the impugned judgment dated 09.09.2016 in Criminal Revision No. 14/2016 passed by the learned Chief Court. He contends that the vehicle in question was not a case property and the same can not be impounded by the National Accountability Bureau authorities as it belongs to a stranger who has having no nexus with the offence. Per learned counsel no

interference is warranted into impugned judgment being passed in accordance with law and facts of the case.

4.   We have heard the learned Special Prosecutor NAB Gilgit as well as the learned Advocate-on-Record for the respondent at length, perused the record of the case file and gone through the impugned judgment dated 09.09.2016 in Criminal Revision No. 14/2016 passed by the learned Chief Court and the order of the learned Trial Court. Admittedly, the respondent has no nexus with the offence and the vehicle in question was not used in commission of the offence. Likewise, the vehicle was not the ownership of any of the accused and there is no rival claimant of the said vehicle. Furthermore, the learned Special Prosecutor NAB Gilgit could not point out any illegality and infirmity in the said impugned judgment; therefore, no interference is warranted into it.

5.   In view of the above discussions, we convert this Criminal Petition into an appeal and the same is dismissed. Consequently, the impugned judgment dated 09.09.2016 in Criminal Revision No. 14/2016 passed by the learned Chief Court is affirmed.

6.   The appeal is dismissed in above terms.

Chief Judge.

Judge.