

***IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.***

Crl. Appeal No.S-3056-SB of 2015

Date of Decision: 21.08.2015

Veena Rani

....Appellant

Versus

State of Haryana

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Sumit Gupta, Advocate
for the appellant.

Mr. Sharad Kumar Yadav, D.A.G., Haryana
for the respondent-State.

DAYA CHAUDHARY, J. (ORAL)

The present appeal has been filed against the judgment dated 04.02.2015 passed by the Additional Sessions Judge, Karnal , whereby, the application moved by the appellant for releasing the vehicle bearing Registration no.HR-05R-1360 which has been taken into possession by the police, in case, FIR No.80 dated 02.05.2010 registered under Sections 302 and 201 read with Section 34 IPC at Police Station Madhuban, has been dismissed.

Learned counsel for the appellant submits that the accused in that case have been acquitted of the charge vide judgment dated 20.03.2014 passed by the Additional Sessions Judge, Karnal but the vehicle of the appellant is lying with the police and its condition is deteriorating day by day. Learned counsel further submits that no purpose would be served by keeping the vehicle in police station. He also submits that the application moved by the appellant has been dismissed only on the ground that an appeal has been filed against the judgment of acquittal, whereas, as per report of the Registry, no appeal has been filed except the

present one in the aforesaid FIR.

Learned counsel for the respondent-State has not disputed the submissions made by learned counsel for the appellant.

As per the prosecution version, the car, in dispute, was used in transporting the dead body and blood stains were found therein, which were sent to Forensic Science Laboratory for DNA examination. As per the report of Forensic Science Laboratory (Exhibit PX1 to Ex. PX5), the DNA of blood stains lifted from the car of the appellant have not matched with the DNA profile of parents of deceased. Said car was allegedly driven by accused Rajinder @ Jinda (since deceased) and other accused had followed him. The registered owner of the car is Veena Rani, who is the present appellant.

During course of trial, it has come in the statement of PW-3 Dinesh Kumar that he had purchased the car, in dispute, from the appellant and he does not know accused Rajinder @ Jinda.

PW-2 Rajesh Kumar deposed that he had purchased the car, in dispute, from Dinesh Kumar. The receipt and delivery receipt were exhibited as Exhibits P-1 and P-2, respectively. The car, in dispute, was taken into possession by the police vide recovery memo Exhibit P-4. However, in the said case, all the accused have been acquitted of the charge by the trial Court vide its judgment dated 20.03.2014 and no appeal against the acquittal has been filed. The application was moved by the appellant under Section 452 Cr.P.C for disposal of property on conclusion of trial but the same has been dismissed.

Section 452 Cr.P.C, which is relevant in disposal of the present appeal is hereby reproduced as under :-

“ Section 452 Order of disposal of property at conclusion of trial :- (1) “When an inquiry or trial in any

Criminal Court is concluded the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.”

The car, in dispute, was alleged to have been driven by accused Rajinder @ Jinda (since deceased) and other accused, who kept the dead body in the car, have followed the Maruti Swift car. All accused have been acquitted as the prosecution had failed to prove its case beyond reasonable doubt. Moreover, the report of Forensic Science Laboratory also had not supported the version of the prosecution, which shows that the Honda City car No.RJ-14-5971 was never used in getting rid of the body of deceased as the blood stains have not matched with the DNA of parents of the deceased.

It is also not disputed by learned counsel for the respondent-State that no appeal has been filed against the judgment of acquittal and the application of the appellant was dismissed only on the ground that the appeal is pending.

It has been argued by learned counsel for the appellant that the appellant is ready to furnish security to the satisfaction of the concerned police authority and she will not use the car in commission of any offence and will also produce the same as and when required.

Accordingly, the present appeal is allowed and the concerned Illaqa Magistrate is directed to release the vehicle of the appellant bearing No.HR-05R-1360 after verification of ownership and other documents subject to her furnishing adequate security to its satisfaction and also after imposing certain conditions that in case, some appeal is to be filed by the

State and in case, the vehicle, in dispute is required at any stage, the appellant shall undertake to produce the same as and when required. However, this condition would be applicable for a period of three years only.

21.08.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE