**In the High Court of Punjab and Haryana at Chandigarh**

**Crl. Misc.-M No. 25546 of 2015**
**Date of Decision: 20.8.2015.**

Kartar Chand Dhiman .....Petitioner

Versus

State of Punjab and another .....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. Satya Pal Jain, Senior Advocate with
Mr. Dheeraj Jain, Advocate
for the petitioner.

Mr. R.P.S.Sidhu, AAG, Punjab.

Mr. S.P.S.Sidhu, Advocate
for respondent No. 2.

****

**SABINA, J.**

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 challenging the orders dated 4.7.2015 (Annexure P-10) and 24.7.2015 (Annexure P-12) whereby the goods in question were ordered to be released on *sapurdari* to respondent No. 2.

Learned senior counsel for the petitioner has submitted that in fact, the petitioner had got registered the FIR in question. The goods in question belonged to the petitioner and were taken in custody by the police from the premises belonging to the petitioner on 16.4.2015 and 18.4.2015. There was no written or oral agreement between the petitioner and respondent No. 2 for handing over the factory on lease to respondent No. 2. Petitioner had moved applications for release of the goods in question on *sapurdari* to the petitioner on 17.4.2015 and 20.4.2015. Respondent No. 2, on the other hand, moved the applications on 23.4.2015 for release of the goods on *sapurdari* and the applications moved by respondent No. 2 were liable to be dismissed. The goods in question should have been released on *sapurdari* to the petitioner.

Learned counsel for respondent No. 2, on the other hand, has opposed the petition and has submitted that there was ample material on record that the goods in question, in fact, belonged to respondent No. 2.

In the present case, the FIR in question has been got registered by the petitioner levelling allegations that on 5.4.2015 when Naib Singh Security Guard was performing his duty, at about 3.30 P.M., Vipan Mittal and his sons accompanied by 40-60 persons forcibly entered the factory and started assaulting him. One of the unidentified person gave an iron rod blow on the left leg of the complainant. The assailants forcibly broke open the locks of the factory and took away the yarn from the factory in vehicle bearing No. PB-10-BU-3188. Complainant then informed the owner of the factory.

Vide the impugned order dated 4.7.2015 (Annexure P-10), the Trial Court allowed the applications moved by respondent No. 2 for release of the goods in question on *sapurdari*. Revision filed by the petitioner against the said order was dismissed by the Court of Revision vide impugned order dated 24.7.2015 (Annexure P-12). Hence, the present petition by the petitioner.

Trial Court while allowing the application moved by respondent No. 2 has observed as under:-

> *"5. After having heard the respective submissions lf Ld. Counsel for parties and having gone through the file, I am of the opinion that the applications for sapurdari filed by KSM Spinning Mills Ltd. deserve to be allowed. There is sufficient material on record to indicate that the material belongs to KSM Spinning Mills Ltd. It is not disputed that the original electricity bills are in possession of the KSM Spinning Mills Ltd. and they have been paying the electricity consumption charges of Jindal Cotex Ltd. Apart from that there are letters written by the shipping companies to KSM Spinning Mills Ltd. for the release of detention charges for the containers No. TGHU7475140, BMOU 4934980, FCIU9389167 and TEMU 6680404. It also shows that these containers were hired by KSM Spinning Mills Ltd. for transporting the material in question. These letters also prove that these containers were sent to Jindal Cotex Ltd. for loading of goods. Besides it, there are letters written by Oriental Bank of Commerce to KSM Spinning Mills Ltd. vide which the firm was directed to deposit the amount of lease for utilization of the assets and running the factory Jindal Cotex Ltd. with the bank. In the said letters it is also clearly mentioned that KSM Spinning Mills Ltd. were running Jindal Cotex Ltd. on lease hold basis. No doubt there is no written lease agreement between KSM Spinning Mills*

*Ltd. and Jindal Cotex Ltd., but otherwise there is sufficient material which shows that the KSM Spinning Mills were running the unit of Jindal Cotex Ltd. There are bills regarding purchase of raw material by KSM Spinning Mills pertaining to period after 17.8.2014 which also corroborate their plea that they were running the unit of Jindal Cotex. Moreover the plea of Jindal Cotex Ltd. that they were doing the job work on behalf of KSM Spinning Mills and they were manufacturing the yarn on behalf of KSM Spinning Mills Ltd. and were packaging the material in the corrugated boxes provided by KSM Spinning Mills Ltd., is not supported by any material on record. The photographs placed on record also show that material has been packed in corrugated boxes bearing the marka of KSM Spinning Mills Ltd. The contention of Jindal Cotex Ltd. that the electricity bills were paid by KSM Spinning Mills Ltd. on their behalf in lieu of the amount due for the job work done is also not supported by any documentary evidence. There is no agreement on record which would show that Jindal Cotex was doing the manufacturing work on behalf of KSM Spinning Mills Ltd. Apart from that there are copies of statements of Naib Singh complainant and Kehar Singh Assistant Manager of Jindal Cotex Ltd.which also goes on to show that the material in question belonged to KSM Spinning Mills Ltd. Even if it is believed that there was some amount due towards KSM Spinning Mills Ltd., Jindal Cotex Ltd. has no*

> *right or authority to detain the material of KSM Spinning Mills. The material in question is perishable community which is subject to decay. Most importantly Special Investigating Team (SIT) of Police has also given the report in which they have clearly stated that the material contained in containers alongwith Tata 909 was packed in corrugated boxes bearing the name of KSM Spinning Mills Ltd. and they have no objection to the release of the material on Sapurdari to KSM Spinning Mills Ltd."*

The Trial Court after noticing the material on record rightly came to the conclusion that the goods in question were liable to be released on *sapurdari* to respondent No. 2 subject to its furnishing bank guarantee in the sum of Rs. Two Crores. The said order was rightly upheld by the Court of Revision vide order dated 24.7.2015 (Annexure P-12).

It is a settled proposition of law that the petitioner cannot invoke jurisdiction of this Court under Section 482 Cr.P.C. after dismissal of his revision by the Sessions Court as it would amount to a second revision. However, in a case of grave injustice, this Court can interfere under Section 482 Cr.P.C.

In the present case, no grave miscarriage of justice has occurred which would warrant interference by this Court under Section 482 Cr.P.C.

Keeping in view the facts and circumstances of the present case, no ground for interference is made out.

Dismissed.

However, it is clarified that any observations made by the Courts below vide the impugned orders will have no bearing on the merits of the case.

At this stage, learned senior counsel for the petitioner has submitted that respondent No. 2 be time bound to furnish the bank guarantee as ordered by the Courts below qua release of the goods in question on *sapurdari*. In case respondent No. 2 fails to furnish the security within the stipulated period, the goods in question be ordered to be released to the petitioner on the same conditions as the petitioner is also ready to furnish the bank guarantee in the sum of Rs. Two Crores. The yarn in question will get damaged due to moisture.

Accordingly, it is ordered that in case respondent No. 2 fails to furnish the bank guarantee as ordered by the Courts below upto 31.8.2015, the Trial Court is directed to release the goods in question on *sapurdari* to the petitioner on the same terms and conditions as imposed on respondent No. 2 vide its impugned order dated 4.7.2015.

**(SABINA)**
**JUDGE**

**August 20, 2015**
**Gurpreet**