

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.No.M-40676 of 2015 (O&M)
Date of decision: 02nd December, 2015

Amit Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Neeraj Kumar, Advocate,
for Mr. A.S.Sullar, Advocate,
for the petitioner.

INDERJIT SINGH, J.

Petitioner has preferred the instant petition under Section 482 Cr.P.C., for issuance of direction to respondent No.2 to submit the report of the damage caused to the car bearing registration No.PB-15-D-0063 alongwith the reasons of the damage which is in the police custody as case property in case FIR No.114 dated 04.11.2011, registered at Police Station Bahawwala, District Fazilka, under Sections 341, 427, 506, 504, 148 and 149 IPC and for quashing of the impugned order dated 10.08.2015, passed by the learned Judicial Magistrate Ist Class, Abohar.

I have heard learned counsel for the petitioner and have gone through the record.

From the impugned order dated 10.08.2015, passed by the learned Judicial Magistrate Ist Class, Abohar, this Court finds that an application was filed by the prosecution directing SHO to submit the

damage report of the car bearing registration No.PB-15-D-0063 alongwith the reasons of damage. It is stated in the application that the present case was registered against the accused and challan was presented without taking the car of the complainant into police possession which was damaged by the accused on the day of occurrence. The complainant had appeared as PW5 before the learned trial Court and during his examination in chief, the damaged car was produced by the complainant on the order of the learned trial Court, which is now lying in Police Station Bahavwala.

After hearing the learned counsel for the petitioner and going through the record especially the impugned order, this Court finds that the FIR in the present case has been registered against the accused under Sections 341, 427, 504, 506, 148, 149 IPC. During investigation, the said car was not taken into police possession. After necessary investigation, challan was presented. Charges were framed. At the time of examination of complainant, the prosecution filed an application seeking permission to produce the said car, its registration certificate as well as photographs in the complainant's evidence which was allowed by the Court vide order dated 27.08.2014. When at the time of examination of complainant as PW5, the car was produced in the Court, its possession was given to SHO. The trial is already going on; investigation is already complete and the car in question remained in possession of the complainant for a long time as the occurrence took place on 02.11.2011 and the

order for producing the said car alongwith photographs and registration certificate was passed on 27.08.2014 and the car was taken into police possession afterwards which show that the car remained in possession of the complainant for a substantial period. When the car was not taken into police possession during investigation, the complainant nowhere asked for further investigation at that time even at the time of presentation of challan etc. At this stage, by asking for the damage report and the reasons for the damage etc. from SHO amounts to collecting evidence on behalf of the prosecution by the Court. As the complainant has already produced the car in his statement and photographs have already been allowed to be produced, therefore, the impugned order passed by the learned trial Court that damage caused on 02.11.2011 cannot be assessed properly as due to passage of almost four years and the exact damage report regarding the cause of damage cannot be considered. The impugned order dated 10.08.2015, passed by the learned Judicial Magistrate Ist Class, Abohar is correct and as per law. No illegality has been committed while passing the said order nor it amounts to miscarriage of justice.

Therefore, finding no merit in the instant petition, the same is dismissed.

02nd December, 2015
mamta

(INDERJIT SINGH)
JUDGE