

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

CRM-M-9573-2015

Date of decision:- May 27, 2015

Satyawan Sharma

.....Petitioner...

Vs.

State of Punjab and another

....Respondents...

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Sahil Kaushal, Advocate,
for the petitioner.

JASPAL SINGH, J.

The instant petition has been preferred under Section 482 of the Code of Criminal Procedure (for short 'Code') seeking quashing of order dated February 09, 2015 (Annexure P-1) passed by Id. Judge, Special Court, Moga whereby an application dated April 21, 2014 (Annexure P-6) moved by the petitioner, has been dismissed.

2. The contention of learned counsel for the petitioner is that petitioner is the owner of truck bearing registration No. PB-10-CC-0164 and while purchasing the said truck, he had taken a loan to the tune of ₹7,95,450/- from the Magma Fincorp Limited. On June 14, 2013, petitioner handed over his truck to respondent No.2 on hire-purchase and an agreement to this effect was reduced in writing. As

per one of the conditions of the agreement dated June 14, 2013, respondent No.2-Jaswant Singh was to pay the remaining 33 installments of the loan and after clearing the loan amount within the prescribed period, he was to get transferred the truck in his name in the registration certificate. But respondent No.2 was arrested by the police and FIR No. 114, dated August 31, 2013, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Bagha Purana, District Moga. The vehicle was also seized by the police in the aforesaid case. Respondent No.2 after his arrest and seizure of truck by the police, committed default in making payment of the installments to the finance company.

3. Learned counsel for the petitioner has contended that the conditions enumerated in the agreement dated June 14, 2013 (Annexure P-3) clearly reveal that it was just a hire-purchase agreement and respondent No.2 has breached one of its conditions i.e. committed default in paying the installments. Moreover, sapurdari of the vehicle in proceedings under Section 451 of the Code deserves to be given to the person, who is prima facie owner of the vehicle or the person in whose name the vehicle stands registered in the records of the motor vehicles authorities. Respondent No.2 has also not filed any counter affidavit that petitioner is not the owner of the vehicle. So, in such circumstances, ownership of the petitioner is not under challenge. Since, respondent No.2 is not registered owner of the vehicle in question, he is not entitled to sapurdari of vehicle in

question. The order passed by the Id. Magistrate is not sustainable in the eyes of law and application (Annexure P-6) deserves to be allowed.

4. After hearing learned counsel for the petitioner and perusal of records available, this Court does not find any merit in the submission made by learned counsel for the petitioner.

5. The truck in question is admittedly purchased by petitioner after obtaining loan from the Magma Fincorp Limited but as per the terms and conditions of the hypothecation agreement as well as loan, truck was hypothecated with finance company and it was in possession of petitioner on behalf of finance company. Petitioner was not competent to transfer the said vehicle in the name of some other person, which is violative of the terms and conditions of the agreement entered into between finance company and petitioner. Moreover, in the case in hand, truck was being used for the transportation of the contraband by Jaswant Singh-respondent No.2. It would not be out of place to mention that petitioner-Satyawan Sharma has also admitted that he had sold the vehicle in question to Jaswant Singh. The copy of affidavit/agreement has also placed on record by him and possession has also handed over to Jaswant Singh. No doubt, as per the contents of registration certificate, vehicle stands in the name of Satyawan Sharma-petitioner but after its sale, petitioner has got no right, title or concern with it. Rather, it appears that petitioner has moved an application for sapurdari of truck, in question, just to save his skin in a criminal case, which is

likely to be got registered by the finance company for the commission of the violation of the terms and conditions of the hypothecation agreement.

6. So, in such situation, this Court does not find any merit in the instant petition. As such, the same is dismissed.

(JASPAL SINGH)
JUDGE

May 27, 2015
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