

2. While assailing impugned order(s), it has been ebulliently argued by learned counsel for the petitioner that both the orders passed by the courts below are absolutely against the settled cannons of law and both the courts below have been swayed just by the reason that car in question is registered in the name of husband of the petitioner i.e. respondent No.2-Virender Singh. In fact, the car in question was purchased by the parents of petitioner which was entrusted to respondent No.2 and his relatives at the time of marriage of petitioner, which was solemnized on March 03, 2009 at Ratia. After the marriage, relations between the couple became strained on account of cruelty being meted out to the petitioner, which constraint the petitioner to get FIR No. 576 dated October 25, 2013 under Sections 406/498-A/34 IPC registered at Police Station Ratia against respondent No.2 and his mother Jasbir Kaur. The car in question was taken in possession by the police during the proceedings/investigation of the afore-said case. Since the car in question was only entrusted to respondent No.2 as Istri Dhan property, he is not entitled to take the same on superdari. Rather, petitioner deserves its possession by way of superdari.

3. These arguments have been controverted by learned counsel for respondents while supporting the impugned order(s) passed by the courts below. They have contended that superdari of car in question has rightly been given to respondent No.2 as he is the registered owner of the property in question. The person in whose name vehicle has been registered in the records of Motor Vehicle Authorities can be termed to be *prima facie* owner of the vehicle. To buttress their contention, respondent No.2 has placed reliance upon the judgments passed by this Court in cases **Paramjit Singh v. State of Punjab and another; 2010 (1) RCR (Criminal) 386** and **Moola Singh v. Puran Singh;**

1987 (1) RCR (Criminal) 1985. Accordingly, they prayed for dismissal of the petition.

4. After bestowing due consideration to the rival submissions and evaluating the impugned order(s) as well as facts of the case in hand, this Court is of the considered view that impugned order(s) are not sustainable in the eyes of law and deserve to be quashed.

5. No doubt, registration of car in question is in the name of respondent No.2 but from the documents, facts and circumstances of the case, it emerges that car was purchased by Jaspal Singh brother of petitioner on February 20, 2009 as is evident from receipt (Anneuxre P-4) issued by Stan Wheels Private Limited, Near Ayali Chowk, Ferozepur Road, Ludhiana and the keys of the car were handed over by Jaspal Singh to a person closely related to respondent No.2 at the time of marriage. Moreover, except the registration certificate showing the name of respondent No.2, he is not in possession of any other document showing its purchase.

6. From the above-referred documents and discussion, it can be safely inferred that car was entrusted/handed over to respondent No.2 at the time of his marriage. It was nothing but an Istri Dhan property, which is absolute ownership of the petitioner. In such a situation, handing over of the car on superdari to respondent No.2 is not justified either factually or legally. Husband i.e. respondent No.2 is only a trustee of car and once the car has been taken into custody by police during the investigation of the case got registered by petitioner against respondent No.2 and his mother, the same ought to have been given on superdari to the petitioner.

7. To buttress these observation, we can have the reference of

pronouncement of Hon'ble Apex Court captioned as *Pratibha Rani v. Suraj Kumar and another; AIR 1985 Supreme Court 628(1)*.

8. As far as the authorities relied upon by respondent No.2, the same are not applicable to the facts and circumstances of the case in hand. The facts of the above-referred cases were entirely different than that of the case in hand.

9. Keeping in view the afore-said discussion, instant revision petition is allowed and impugned orders dated December 06, 2013 (Annexure P-2) passed by learned Sub Division Judicial Magistrate, Ratia and dated August 21, 2014 (Annexure P-3) passed by learned Additional Sessions Judge, Fatehabad are set aside. Car in question is ordered to be released on superdari to the petitioner on executing personal bond/surety bond to the satisfaction of learned trial Court/Duty Magistrate, Fatehabad.

JANUARY 13, 2016
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(JASPAL SINGH)
JUDGE