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

**1. CRM-M-3358-2017
Date of Decision:- August 24, 2017**

Ajay KumarPetitioner

Versus

State of U.T. and othersRespondents

2. CRM-M-26007-2017

Satnam Singh alias LaddiPetitioner

Versus

Union Territory, Chandigarh etc.Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. R.S.Tacoria, Advocate,
for the petitioner in CRM-M-3358-2017
and for respondent no.2 in CRM-M-26007-2017

Ms. Ashima Mor, APP, U.T. Chandigarh.
for the respondent-U.T.

Mr. Ravi Gakhar, Advocate,
for the petitioner in CRM-M-26007-2017
and for respondent no.3 in CRM-M-3358-2017

SHEKHER DHAWAN, J.

The above titled two petitions under Section 482 of Code of Criminal Procedure [Cr.P.C.] are directed against the common order dated 16.1.2017 passed by learned Additional Chief Judicial Magistrate, Chandigarh.

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2. **CRM-M-3358-2017** has been filed by petitioner – Ajay Kumar for setting-aside/modifying the order dated 15.1.2017 (Annexure P/5) to the extent of releasing the vehicle, make Fortuner bearing registration No.HR-49D-9001 to him on *superdari* on furnishing bank guarantee in the sum of Rs.18.00 lakhs.

3. **CRM-M-26007-2017** has been filed by petitioner, Satnam Singh claiming ownership of the aforesaid vehicle and prayed that the vehicle be released on superdari to him and at the same time, submitting that there are no grounds for modifying the impugned order regarding furnishing of bank guarantee as ordered by the Court below. Therefore, both these petitions are being disposed of by this common order.

4. Facts relevant for the purpose of decision of these two case; that petitioner – Ajay Kumar got finance facility for the above said vehicle from Kotak Mohindra Bank, Chandigarh. Subsequently, he was unable to repay the installments and handed over the possession of the vehicle to Chetan Bakshi, respondent No. 2 for sale in the Car Bazar. However, respondent No. 2, without the knowledge and without taking into confidence petitioner – Ajay Kumar, handed over the aforesaid vehicle to Satnam Singh, respondent No.3. Petitioner – Ajay Kumar, asked for return of the car, but respondents No. 2 and 3 had refused to return the vehicle. Subsequently, respondents No. 2 and 3 prepared bogus documents and claimed compensation amount in an accident claim case. FIR No.195 dated 7.10.2016 was registered at Police Station, Sector 26, Chandigarh under

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Sections 406, 420, 467, 468, 471 and 120-B IPC. However, the aforesaid Fortuner car was recovered by the police in the said FIR from petitioner – Ajay Kumar.

5. Petitioner – Ajay Kumar moved an application for release of the said vehicle on *superdari* and learned Additional Chief Judicial Magistrate after considering the conflicting claims of Ajay Kumar as well as Satnam Singh passed detailed order dated 16.1.2017 thereby ordering release of the said vehicle on *superdari* to petitioner – Ajay Kumar on furnishing bank guarantee to the tune of Rs.18.00 lakhs. petitioner – Ajay Kumar is aggrieved of passing of the said order seeking modification/ setting-aside of the order that imposition of condition of bank guarantee would be too harsh and order be modified to the extent that the release of vehicle on *superdari* on surety bonds of the equivalent amount.

6. Satnam Singh, petitioner in CRM-M-26007-2017 has taken the plea that he is the owner of the vehicle as he had purchased the same against payment and receipt from the financier and the vehicle should be released to him on *superdari* and there is no ground for release of the vehicle on *superdari* to petitioner – Ajay Kumar or at any rate, modifying the order to that of furnishing surety bond in lieu of bank guarantee.

7. Learned counsel for the parties submitted their arguments on these respective lines.

8. Taking the case from admitted facts that petitioner – Ajay Kumar is the registered owner of the vehicle, make Fortuner bearing

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No.HR-49D-9001, it had come on file that the vehicle was taken in police custody from the possession of petitioner – Ajay Kumar during investigation of FIR No. 195 dated 7.10.2016. Learned trial Judge while considering all these facts, rightly passed the order that vehicle be released on *superdari* to petitioner – Ajay Kumar as he is the registered owner and placed reliance upon the judgment of Hon`ble Supreme Court in **Manoj Vs. Shriram Transport Finance Ltd, 2002(2) R.C.R. (Criminal) 730 (SC).**

9. Learned counsel for the respondent – Satnam Singh submitted that in case of purchase of vehicle under hire-purchase system, the vehicle is seized by the police in a criminal case can be released to the financier on *superdari*. On this point, reliance was placed upon on judgment of Hon`ble Delhi High Court in **Vikas Investment Company Vs. The State 2000(1) R.C.R. (Criminal) 540**, wherein such a view was taken.

10. I have gone through the judgment in **Vikas Investment Company's case (supra)** and am of the view that the facts of the case in hand are entirely distinguishable as in the cited case, there is no conflicting claim by registered owner against person having purchased the vehicle on hire-purchase basis. In the present case, petitioner – Ajay Kumar is the registered owner of the vehicle in question and as per the view taken by Hon`ble Apex Court in **Manoj's case (supra)**, the vehicle is to be released on *superdari* to the registered owner. Therefore, in the light of these facts, there is no illegality in the order for release of the vehicle on *superdari* to

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petitioner – Ajay Kumar.

11. Now, coming to the point – whether there is any reasonable ground or justification to modify the order qua furnishing of bank guarantee to furnishing of surety bond, similar matter was before a Co-ordinate Bench of this Court in P.R.Bhatkar Vs. CBI, 2012(3) R.C.R. (Criminal) 825, wherein view was taken that in such like matters, there are no grounds for interference with the order unless it is unjustified or illegal. Identical view was taken by this Court in Kulwant Singh Vs. State of Punjab, 1997(4) R.C.R. (Criminal) 727.

12. In view of the above, no ground is made out for interference in the impugned order passed by the Court below. Resultantly, both these petitions lack merit and stand dismissed.

August 24, 2017
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(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned
Reportable

Yes
Yes