IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

244

CRM-M-43464 of 2016
Decided on : 04.10.2017

ISS SDB Security Services Pvt. Ltd.

... Petitioner

Versus

State of Punjab and another

.. Respondents

CORAM : HON'BLE MR.JUSTICE A.B. Chaudhari

Present : Mr.B.S.Bedi, Advocate
for the petitioner.
Mr.Dhruv Dayal,Sr.DAG, Punjab.
Mr.SPS Sidhu, Advocate for respondent No.2.

A.B. Chaudhari, J. (Oral)

Heard learned counsel for the rival parties.

This Court vide order dated 19.07.2017 had called for explanation of the learned Additional Sessions Judge, Fazilka. The explanation furnished by the said Judicial Officer is not satisfactory. The explanation with all relevant papers shall be forwarded to the Registrar General for further action.

On 19.07.2017, this Court had issued notice to the respondent since prima facie, it was found that respondent No.2 had mis-utilized the process of law for claiming the case property i.e. currency notes in the sum of Rs.43,00,000/- without filing on record any evidence as to the lawful possession /ownership of the respondent No.2.

Pursuant to the last paragraph of the said order dated 19.07.2017, respondent No.2 has placed on record certain documents in CRM-23479 of 2017.

Sudhir Kumar
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authenticity of this document
High Court, Chandigarh

There is reason to believe prima facie that the documents which are now filed before this Court are all after thought. Apart from that, law regarding disposal of the case property is well settled that the case property cannot be returned to the persons against whom there are allegation of theft and receiver of stolen property, unless the court is satisfied about the lawful possession/ownership of the currency notes. The Revisional Court without recording a single finding of fact about ownership/lawful possession ordered release of the currency notes in the sum of Rs.43,00,000/- to respondent no.2 only because the currency was recovered from him. That was wholly illegal.

In the present case, prosecution allegation is that there was a theft in the ATM from which a huge currency was stolen. Out of which, the case property in the sum of Rs.43,00,000/- was recovered from the possession of respondent No.2 which was ordered to be released in his favour by the impugned order. This could not have been done since there was not even the remotest proof of lawful possession or ownership of the accused namely, the respondent No.2.

In that view of the matter, the impugned order must be held to be contrary to law and obviously, the result of perversity. The revisional impugned order deserves to be quashed and set aside.

This Court had also issued notice to the respondent No.2 as to why bail granted to him should not be cancelled and exemplary costs should not be imposed upon him. However, since this Court has timely stayed the revisional order, it is not necessary to impose the costs or cancel his bail.

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Learned counsel for respondent No.2 makes a statement that the trial has commenced, obviously, the same would be completed within a reasonable period.

The trial court obviously would ultimately pass an order for final disposal of the case property under Section 452 Cr.P.C and the parties including petitioner and the respondents would be entitled to claim the property by showing lawful possession or ownership of the property before the court.

In the result, I make following order:-

Order

(i) CRM-M-43464 of 2016 is allowed.

(ii) Revisional order dated 21.09.2016 is quashed and set aside.

(iii) The parties are at liberty to put their respective claims before the trial court in respect of case property according to law.

All the observations made herein above are restricted for the decision of the present petition only and shall not influence the trial court while deciding the issue on merits.

[A.B. Chaudhari]
Judge

04.10.2017
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No

Sudhir Kumar
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