

251 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Hemlata
2017.12.09 14:09
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CRM-M-42961-2017(O&M)

Date of decision:06.12.2017

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...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of the order dated 18.05.2017 (Annexure P-4) passed by the trial Court as well as the order dated 28.10.2017, passed by the Sessions Judge, Yamuna Nagar, vide which revision petition filed by the petitioner was dismissed.

The brief facts of the case are that the petitioner, being a registered owner of a vehicle Mahindra Bolero pick-up bearing registration No. HR-58-A 6945, moved an application for releasing the said vehicle on *supardari*. The trial Court, vide impugned order dated 18.05.2017 dismissed the application. Thereafter, the petitioner filed a criminal revision and the same was also dismissed on 28.10.2017.

Learned counsel for the petitioner submits that the only reason given by the Courts below for declining the release of the vehicle on *supardari* is that the FIR has been registered under Section 13(2) of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and as per Section 17 of the Act, the police is empowered to confiscate such a vehicle and till the time the competent authority does not pass an order under Section 2(d) of the Act, the same cannot be released. It is further submitted that the competent authority i.e. Sub-Divisional Magistrate has not passed any order so far.

Reply by way of affidavit of DSP, Yamuna Nagar on behalf of the respondent-State has been filed in Court today and the same is taken on record. As per this reply, the Sub-Divisional Magistrate has passed an order on 22.02.2017 (Anneuxre R-1), to seize the vehicle in dispute till the

decision of the case by the Court.

Counsel for the petitioner has relied upon the order dated 30.05.2017 passed by the Division Bench of this Court in ***CWP No. 19153 of 2016 Mainpal Vs. State of Haryana and other*** where in identical circumstances considering the fact that qua the vires of Section 17 of the Act, an amendment is under consideration with Government, the vehicle was released on *supardari*. Similar view has been taken by this Court, vide order dated 08.08.2017 passed in ***CRM-M-28724-2017, Harpal Singh Vs. State of Haryana.***

In reply, learned State counsel has submitted that in view of bar under Section 17 (3) of the Act, once the competent authority has ordered confiscation of the vehicle, the Courts below have rightly dismissed the application.

After hearing learned counsel for the parties, I find merit in the present petition. In view of the order passed in Mainpal's case and Harpal Singh's case (Supra), the impugned orders dated 18.05.2017 (Annexure P-4) and 28.10.2017 (Annexure P-6) passed by the Courts below are set aside. The vehicle i.e. Mahindra Bolero pick-up bearing registration No. HR-58-A 6945 shall be released on *Supardari* to its registered owner subject to the satisfaction of the trial Court/duty Magistrate.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

06.12.2017

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No