

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

CRM-M No.13014 of 2017 (O&M)
Date of decision: 11th December, 2018

Sushil

... Petitioner

Versus

State of Haryana & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Rajesh Bansal, Advocate for the petitioner.

Mr. Gaurav Bansal, Asstt. Advocate General, Haryana
for respondent No.1/State.

Mr. S.S. Virk, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

The factual matrix as necessitated to be reproduced before adjudicating upon this petition under Section 482 Cr.P.C. filed by accused petitioner Sushil whereby he has sought setting aside of orders dated 06.01.2017 (Annexure P2) passed by the Court of learned Chief Judicial Magistrate, Panipat and which has merged with impugned order dated 24.01.2017 (Annexure P4) passed by the Court of learned Additional Sessions Judge, Panipat whereby revision petition of the petitioner against impugned order of the trial Court has since been dismissed, are as follows:-

An FIR bearing No.1606 dated 20.12.2016 under Sections 323, 498-A, 506, 377 IPC was registered at Police Station City Panipat in

which the present petitioner Sushil happens to be one of the accused. During the course of proceedings before the learned Judicial Magistrate 1st Class, Panipat, an application for release of a car bearing registration No.HR-06-AG-0147 on sapurdari was made on the grounds that the petitioner is the registered owner of the car in question and which has been wrongly and falsely implicated by the police and taken into possession. By another quirk of fate, another application for sapurdari of the same very vehicle was moved by one Rajinder Singh claiming that he has given the said vehicle to his daughter Pinki at the time of her marriage as Stridhan and therefore, the accused applicant Sushil is not entitled to any sapurdari of the same. The Court of learned Chief Judicial Magistrate, after hearing arguments vide orders dated 06.01.2017 allowed the application of Rajinder Singh whereas that of the present petitioner stood declined.

The aggrieved accused filed a revision before the Court of learned Sessions Judge, Panipat and through impugned judgment dated 24.01.2017 the Court of learned Additional Sessions Judge, Panipat after hearing the parties, dismissed the revision and that is how the present petition has come about by virtue of Section 482 Cr.P.C.

Upon hearing learned counsel for the petitioner, learned State counsel, learned counsel representing the complainant and on perusal of

the records. During the course of vociferous and forceful arguments by the two sides, to the very query of this Court the two sides do not dispute the fact that as per the certificate of registration issued under the Motor Vehicles Act, 1988 (in short, 'the Act') which is placed on record of this case as Annexure P5, the vehicle in question bearing registration No.HR-06-AG-0147 is shown to be registered in the name of one Sushil son of Sher Singh, resident of Panipat and the vehicle is without any encumbrance.

Though on behalf of the private respondent, the counsel has sought to rake up the plea that since the vehicle in question was given as an article of Stridhan therefore, Rajinder Singh, the father of the girl, is its rightful claimant and is entitled to its sapurdari and which is sought to be challenged with much elance by the learned counsel for the petitioner on the grounds that being the registered owner, the petitioner has a right over and above the claimant Rajinder Singh.

Section 2 sub-section (4) of the Motor Vehicles Act defines 'certificate of registration' as follows:

"2. (4) "certificate of registration" means the certificate issued by a competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter IV."

Furthermore, Section 50 of the Act provides for transfer of ownership and drawing interpretation from sub-section (2) of this Section, makes it sufficiently clear that the only symbol of ownership of a motor vehicle is the certificate of registration. Learned counsel for the private respondent could not displace the veracity of Annexure P5, which is certificate of registration of the motor vehicle in question and shows that the owner is Sushil son of Sher Singh, the present petitioner.

The Hon'ble Supreme Court in '**Rajendra Prasad vs. State of Bihar**' 2002(2) RCR(Criminal) 812, in a similar situation has held that where there are rival claimants with regard to title, temporary custody needs to be given to the one mentioned in the registration certificate till conclusion of the trial. In another view of the Hon'ble Apex Court in '**Sunderbhai Ambalal Desai vs. State of Gujarat**' 2003(1) RCR(Criminal) 380, interpretation of Section 451 Cr.P.C. has been made and which is purely for the proper custody pending conclusion of the inquiry or trial and which is primarily with a view to prevent personal loss or national loss by keeping the vehicle in police custody and wherein directions were issued to the trial Court to ensure speedy disposal of the case property which are subject matter of trial. Furthermore, in another view of Hon'ble Calcutta High Court in '**Ananda Mondal vs. State of West Bengal & another**' 2014(12)

RCR(Criminal) 2944 interpreting Section 50 of the Act, His Lordship has come to a view that in such a situation where there is a claim and counter-claim, the vehicle needs to be released to the registered owner. Though in the present case, there is a claim and counter-claim where Rajinder Singh claims that he had given the vehicle in question as Stridhan to his daughter Pinki on her wedding and which is refuted by learned counsel for the petitioner and they have sought to place reliance on letter and bank entry to reflect that a sum of Rs.10,000/- etc. were deposited as booking amount by Rajinder Singh. In the impugned findings, the learned Court below has tried to adjudicate it as a civil dispute holding that the total price of the car has been assessed to be Rs.6,60,000/- and major portion of the funds i.e. Rs.4.00 lacs had been given by the parents of the revisionist and Rajinder Singh, then respondent, counter-claimant had paid only Rs.2.60 lacs including the booking amount of Rs.10,000/-, and had drawn the conclusion holding the vehicle to be Stridhan and thus, adjudicated on the title of the car in question, thus the Court below has certainly fallen into an error by doing it so. In criminal trial, especially while disposing off a prayer under Section 451 Cr.P.C., the Court is not supposed to embark upon such an adventure and is supposed to just prima-facie see the ownership and which is evident from the certificate of registration issued by the

appropriate authority. Since in this case it is not displaced that Sushil is registered owner of the vehicle in question and this Court seeking support from a Single Bench view of this Court in '**Paramjit Singh vs. State of Punjab and another**' 2010(1) RCR(Criminal) 386 where in a similar situation, His Lordship has held that the term 'owner' means the person in whose name the motor vehicle stands registered and since admittedly the claim and rival claim regarding this vehicle is there and as has been submitted by the learned counsel for private respondent that the suit for determining title is also pending between the parties, it would be in the fitness of things that pending the conclusion of the civil suit and till its conclusive findings, it is desirable that by virtue of provisions of Section 451 Cr.P.C. which are primarily summary in nature, the Court needs to exercise its discretion judiciously for giving interim custody of the car in question. Since the petitioner is the registered owner therefore, it would be necessitated so. The Court below has certainly fallen in an error by going into that length which is not within the ambit of Section 451 Cr.P.C.

In the light of what has been detailed and discussed above, the impugned findings are certainly wrong interpretation of law and being illegal and perverse needs to be set aside by way of acceptance of the present petition. The petition stands allowed in those terms. However,

it is made clear that at the time of release of the vehicle on interim sapurdari, the trial Court shall ensure that the present petitioner gives a executive bond/bank guarantee to the tune of Rs.10.00 lacs with surety of the like amount along with an undertaking that he will not alienate the property in any manner or change its colour or nature and shall keep intact its physical state. Necessary particulars of its accessories be also recorded, subject to the satisfaction of the trial Court.

The petition stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

December 11, 2018

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No