

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

CRM-M No.16558 of 2017 (O&M)

Decided on: 25.04.2018

Karan Mangla

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Gaurav Sharma, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

Mr. K.B.S. Mann, Advocate
for respondent No.5.

ARVIND SINGH SANGWAN J.

Prayer in this petition is for quashing the orders dated 12.05.2016 (Annexure P1) passed by the trial Court vide which the application of the petitioner for releasing the Swift car bearing No.CH01-AG-2727, chassis No.MA3FSE81S00290097, engine No.D1DA1455801, was dismissed as well as the order dated 03.03.2017 (Annexure P2) passed by the Additional Sessions Judge/Revisional Court vide which the revision filed by the petitioner was also dismissed.

Brief facts of the case are that the petitioner is the registered owner of a white colour Swift diesel car bearing No.CH01-AG-2727, chassis No. MA3FSE81S00290097, engine No.D1DA1455801. The said car was stolen from a marriage palace at Barnala on 12.05.2013 and an FIR No.39 dated 12.05.2013 under

Section 379 IPC was got registered by the petitioner at Police Station Dhanaula, District Barnala. The car was later on recovered by the police in another FIR No.68 dated 13.06.2006 registered under Sections 379, 411, 467, 468, 471 IPC at Police Station Jhunir and was parked in the police station as case property in the said case. The petitioner on coming to know this fact moved an application before the concerned Illaqa Magistrate for taking the superdari of the said car and the Sub-Divisional Judicial Magistrate, Sardulgarh called for a report of the police. The police submitted a report dated 15.01.2014 (Annexure P8) and the operative part of the same read as follows:-

“Sir,

It is submitted that in case No.06 dated 13.06.2006 under Sections 379, 411, 467, 468, 471 IPC, P.S. Jhanir a white color Swift Desire No.CH-01AB-3916 had been recovered from the accused Paramjit Singh etc., on 25.12.2013, whose engine No.K12MN1019801 and chassis No.MA3ESKDIS00236261 was written tampered, whose engine number is D13A1455801 and chassis number is MA3FSE81500290093 and registration number if CH-01-AG-2727. The the engine number and the chassis number had been changed and on the rear glasses of the car the vehicle number is written to be CH-01-AG-2727 and as per the original bill of the battery it had been found that the battery purchased by them is installed in the car. That from the number written on the glasses of the car and as per the bill of the battery the owner of this car and the RC owner of this car is Karan Mangla S/o Sh. Vinod Kumar, City Barnala and the Local Police had no objection in giving this vehicle on supardari to him. Photocopy of the RC of the car and the bill of the battery is attached. The report is submitted.

*Sd/-
Harbans Singh ASI,
SHO, P.S. Jhanir
15.01.2014”*

The Court, relying upon the report of the police, thereafter, released the said vehicle on superdari in favour of the petitioner vide order dated 20.01.2014 (Annexure P9).

Counsel for the petitioner has submitted that in pursuance to the order dated 20.01.2014 when the petitioner requested the SHO, Devinder Singh – respondent No.4 to release the car, he refused and demanded bribe and on that account, the petitioner submitted a complaint dated 22.01.2014 (Annexure P10) before the concerned Court. Later on, the matter was settled between the petitioner and respondent No.4 and the petitioner withdrew his complaint, however, respondent No.4 got the revision filed against the order dated 20.01.2014 before the Revisional Court by twisting the facts after a period of 05 months. The Revisional Court vide order dated 10.10.2014 allowed the revision and remanded the case back. In the meantime, the respondent No.5 also moved an application before the trial Court claiming that he is the registered owner of the vehicle in dispute as per the application (Annexure P12).

Thereafter, the trial Court vide its order dated 12.05.2016 released the vehicle in dispute in favour of respondent No.5 – Darshan Singh. The petitioner filed a revision before the Additional Sessions Judge and the same was also dismissed vide order dated 03.03.2017.

The petitioner has challenged the aforesaid orders on the grounds that the petitioner is the registered owner of Swift diesel car

bearing registration No.CH01-AG-2727, chassis No. MA3FSE81S00290097, engine No.D1DA1455801 and respondent No.5 is owner of a Maruti silver colour car with petrol engine having different registration, engine and chassis number. Counsel for the petitioner has further submitted that during the investigation of the FIR No.12 in which the car was recovered, the police has recorded the confession statement of accused – Paramjit Singh @ Pamma and Sarabjit Singh @ Saba who have given the details of the Swift Dzire car bearing registration No.CH01-AB-3916 and as per the registration certificate received from the said car, it was a petrol car having silver-grey colour and its registration certificate is transferred in the name of respondent No.5 – Darshan Singh whereas the car recovered is white colour car having a diesel engine. It is, thus, submitted that the respondent No.5 is owner of a silver colour petrol Swift Dzire car as per the registration certificate, recovered in the investigation by the police and was not the owner of the white colour diesel Swift Dzire car. Counsel for the petitioner has further argued that the Sub-Divisional Judicial Magistrate has directed the SHO to obtain a report from the Maruti Suzuki Company, who submitted a report dated 11.10.2015 (Annexure P15) after physical verification of the vehicle and the documents relating to engine number and chassis number. The operative part of the said report reads as under:-

“Sir,

We have been asked to inspect and verify the anticidents of the vehicle by your representative and below mentioned are the facts of the vehicle:

- 1. Vehicle shown to us bearing E. No.1019803*

C. No.236231 colour white Swift Dzire VDi 2010 and the number plate shows registration no.CH01 AG 2727. On verifying the records available in the Maruti Dealer Network system the above chassis and engine number pertains to a vehicle Swift Dzire VXi which should bear Regd. No.CH01AB3916 and colour should be Silky Silver.

2. The Engine and chassis No. of the vehicle bearing Regd. No.CH01 AG 2727 should be Chassis No.290097, E. no.145501 and colour of the vehicle should be white. This should be a Dzire VDi in white colour with a diesel engine.

3. The vehicle shown to us is with a diesel engine and the colour of the vehicle does not seem to be changed. Hence, the engine and chassis number seems to be tempered in the vehicle.

The above is submitted for your perusal and reference.

With regards

For Hira Automobiles Ltd.

*Sd/-
Jai Dev
Works Manager”*

Counsel for the petitioner with reference to this report has submitted that the vehicle shown to them is a white Swift Dzire VDi car of 2010 model showing the number plate as CH01-AG-2727 (At that time the same was in possession of the petitioner). It was also stated that as per the record available in Maruti Dealer Network System, chassis number and engine number pertain to a vehicle Swift Dzire VXi (petrol) and it should bear registration No.CH01-AB-3916 and its colour should be Silky Silver. It was also stated that the engine number

and chassis number of the vehicle bearing registration number CH01-AG-2727 (of the petitioner) should bear Chassis No.290097 and Engine No.1455801 white colour Swift VDi with diesel engine and it was further stated that the engine and chassis number seems to be tempered in the vehicle.

Counsel for the petitioner has further submitted that the Courts below have not looked into the aforesaid evidence lead by the petitioner that in fact he is the registered owner of the vehicle and the same has been wrongly given on superdari to respondent No.5. He has further relied upon the photocopy of purchased bill of the Swift Dzire VDi diesel car for Rs.6,24,090/- in favour of the petitioner vide Invoice dated 19.08.2010 as Mark A and Form No.22 showing the engine number and chassis number of the car of the petitioner as Mark B. It is, thus, submitted that the car in dispute belong to the petitioner which has been wrongly given on superdari to respondent No.5.

Reply by way of affidavit of the Deputy Superintendent of Police, Sub-Division Mansa has been filed and as per the reply, it is stated that the petitioner has earlier filed CRM-M no.33023 of 2015 praying for issuance of direction to official respondents to conduct fair and impartial enquiry and to take legal action against respondents No.4 and 5. The said petition was disposed on 28.09.2015 directing the Senior Superintendent of Police, Mansa to look into the representation of the petitioner and decide the same within a period of 02 months.

It is further submitted that, in pursuance thereof, the Senior Superintendent of Police, Mansa has passed an order dated 05.12.2015 holding that the petitioner and one Darshan Singh are claiming the

ownership of the car and the matter is *sub judice* before the Sub-Divisional Judicial Magistrate, Sardulgarh. Another affidavit of Davinder Singh, Inspector, Incharge Law and Order, Kotwali, Bathinda has been filed in which he has denied the allegation of mala fide levelled by the petitioner and has submitted that the Courts below have passed the judicial orders, in accordance with law by releasing the car in favour of respondent No.5 – Darshan Singh on superdari.

In reply filed by respondent No.5, it is stated that he has produced all the relevant documents before the trial Court and has examined PW2 – Navjinder Singh, Data Entry Operator, Office of DTO Sri Muktsar Sahib who has proved on record the original Form No.29, 32 Part II, affidavit of Darshan Singh, affidavit of sale by Captain Richa Bala Krishna, Form No.35, the crime report, the payment receipts as Exs.PW2/A to PW2/K. It is further stated that the respondent No.5 got a verification from National Crime Record Bureau, the motor vehicle verification counter at Sri Muktsar Sahib and as per the verification report (Annexure R5/2), there is no entry regarding the theft of the car of the petitioner bearing No.CH01-AB-3969. It is further submitted by counsel for respondent No.5 that the car was got transferred in his name on 13.09.2012 by the District Transport Officer, Shri Muktsar Sahib on submission of the document by the previous owner Captain Richa Bala Krishna and, therefore, the respondent No.5 being the registered owner of the same has been given the car in dispute on superdari after both the parties have adduced the evidence before the trial Court.

After hearing counsel for the parties, I find merit in the

present petition for the following reasons:-

(a) The registration of the Swift car bearing No.CH01-AB-3916 is in the name of its original owner Captain Richa Bala Krishna. The evidence led by the respondent – Darshan Singh is only to the extent that PW2 – Lovejinder Singh has proved the various documents vide which the registration of this car was transferred from the original owner i.e. Captain Richa Bala Krishna in the name of Darshan Singh. The respondent – Darshan Singh could have produced on record the sale letter as well as all the relevant forms submitted by Captain Richa Bala Krishna at the time when the car, at the first instance was registered in his name to prove the engine and chassis number of car bearing No.CH01-AB-3916.

(b) A perusal of the letter issued by the Heera Automobiles, an authorized dealer of Maruti Udyog Limited, a doubt is raised with regard to the engine number, chassis number as well as the fact that whether the said car is having petrol engine or diesel engine and, therefore, both the Courts below have not recorded any specific finding with regard to the aforesaid report given by Heera Automobiles Limited.

(c) The petitioner has produced on record the purchase bill of Swift Dzire Vdi diesel car along with certain other documents showing that he is the registered owner of car No.CH01-AG-2727 and as per the aforesaid

report, there is a tampering in the engine and chassis number.

(d) As per the case of respondent No.5 – Darshan Singh, he is owner of Silver colour petrol Swift Dzire car whereas it is a case of the petitioner that he is owner of a White colour Swift Dzire diesel car and this fact can be proved by examining a witness from the Maruti Udyog Limited or Maruti Dealer Network System as well as the concerned Clerk from the office of the Registration and Licensing Authority can produce the original invoices/forms with regard to the car in dispute purchased by Captain Richa Bala Krishna and registered in his name at the first instance, which was later on, sold to respondent No.5.

Accordingly, this revision petition is allowed and the case is remanded back to the trial Court to pass afresh order after allowing the parties to lead fresh evidence with regard to establishing the identity of both the cars which were sold to the petitioner – Karan Mangla as well as to Captain Richa Bala Krishna, which were later on sold to respondent No.5, in accordance with law.

(ARVIND SINGH SANGWAN)
JUDGE

25.04.2018
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No