

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 07.03.2018

1. CRM-M-19614-2016

Lakhvir Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

2. CRM-M-19655-2016

Lakhvir Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.Vivek Thakur, Advocate,
for the petitioner.

Mr. A.S. Sandhu, Addl. A.G., Punjab.

Ms. Payal Mehta, Advocate,
for respondent No.2.

JAISHREE THAKUR, J.

1. This Court propose to dispose of the aforementioned two criminal miscellaneous petitions by this common order since the subject matter and the parties to the *lis* are the same.

2. In brief, the facts are that a marriage was solemnized with Subeg Singh and the complainant Lakhvir Kaur on 01.12.2013 as per Sikh rites at Patiala. On account of matrimonial disputes between the parties and alleged harassment, the complainant approached the Senior Superintendent of Police, Patiala and submitted a complaint on 23.04.2015. After the registration of the complaint and enquiry, FIR No. 68 dated 23.07.2015 was registered at Women Cell, Patiala, District Patiala under Sections 406 and 498-A IPC. It was alleged that at the time of marriage a Duster car was given and the same has been misappropriated by the husband of the complainant, namely Subeg Singh and the same has been sold to his near friend, namely Ashok Kumar on 20.07.2015 i.e. three days prior to the registration of the aforesaid FIR. After registration of the FIR, dowry articles/ *Istridhan* including the Duster car was taken into possession by the Police. The complainant filed an application for release of the Duster car bearing registration No. PB-11-BJ-6007 on the ground that the car had been purchased by her father Sh. Sukhdev Singh Chahal after withdrawing the amount from her Saving Bank Account and even the delivery of the said car was taken by her father. Since the car was to be given as *Istridhan* in the dowry, the car was purchased in the name of the complainant's husband, son-in-law of Sh. Sukhdev Singh Chahal, who had purchased the car. The application of the complainant for release of car on *Sapurdari* was rejected by the Judicial Magistrate Ist Class, Patiala vide order dated 20.02.2016 holding that for release on *Sapurdari* the Court has to see *prima facie* who is the owner of the vehicle in question and the application filed by the complainant-petitioner herein was rejected. The said order was assailed before the Revisional Court on the grounds that the actual owner of the car

was the petitioner-complainant since her father who had purchased the said car and given it to her as her *Istridhan*. The said revision petition was dismissed. Aggrieved against the said order, the instant petition i.e. CRM-M-19655-2016 has been filed.

3. In the meantime, Ashok Kumar – respondent No.3 filed an application for release of the said Duster car alleging that he had purchased the same from Subeg Singh who was the true owner. It was averred in the said application that the police had taken the Duster car bearing No. PB-11-BJ-6007 into possession as case property in FIR No. 68 dated 23.07.2015 whereas the applicant Ashok Kumar was true registered owner of the said vehicle. It was averred that there was no parking arrangement in the Police Station and the condition of the vehicle was deteriorating day by day. The said application was allowed and against the said order, the complainant filed a revision petition which came to be dismissed, leading to the filing of the Criminal Miscellaneous petition bearing No. **CRM-M-19614-2016**.

4. Learned counsel appearing on behalf of the petitioner herein contends that the impugned orders allowing *Sapurdari* in favour of Ashok Kumar-respondent No.3 is not sustainable on account of the fact that she is the true owner of the car since the same is the *Istridhan* and has been given to her by her father at the time of her marriage. It is argued that the car though bought by her father was, however, registered in the name of Subeg Singh being her husband who fraudulently sold the same to Ashok Kumar three days prior to the registration of the FIR in order to circumvent and defeat her right to have the car returned to her.

5. Per contra, learned counsel appearing on behalf of the private respondent Nos. 2 & 3 argues that the Duster car bearing No. PB-11-BJ-

6007 was not in exclusive ownership of the petitioner-complainant as in fact 50% of the sale consideration had been given by Subeg Singh, husband of the complainant and that is why the car was registered in his name and without adequate proof, no finding could be given whether the vehicle in dispute constitutes *Istridhan* of the complainant. Moreover, since the husband Subeg Singh was the registered owner of the car, he was competent to sell the same to Ashok Kumar and receive the sale consideration.

6. I have heard learned counsel for the parties and have perused the impugned orders so passed.

7. There is no doubt that the Duster car bearing No. PB-11-BJ-6007 was registered in the name of Subeg Singh who further sold the same to Ashok Kumar- respondent No.3. It is still a matter of evidence as to whether Sukhdev Singh Chahal, father of the petitioner had purchased the said car and given the same as *Istridhan* to his daughter, petitioner herein, even though the same was registered in the name of Subeg Singh, husband of the petitioner-complainant. It is also yet to be proved whether Subeg Singh had paid 50% of the sale price as alleged by him.

8. There is no infirmity in the orders passed by the Courts below allowing *Sapurdari* in favour of Ashok Kumar since as on date he is the registered owner of the said Duster car bearing No. PB-11-BJ-6007. All arguments of the petitioner that the car is in fact *Istridhan* have yet to be established by way of evidence. Even otherwise, the FIR has been registered under Sections 498-A and 406 IPC which pertain to cruelty on account of demand of dowry and misappropriation of the *Istridhan*. The trial under the aforesaid FIR is in process and in case the petitioner herein is able to establish that there has been misappropriation of her *Istridhan* under Section

406 IPC, the respondent-husband will face the consequences of the same.

9. In view of the above, both the petitions stand dismissed leaving it open to the petitioner herein to take all the pleas available to her before the Courts below to establish her case under Sections 498-A & 406 IPC.

10. A photocopy of this order be placed on the file of the connected case.

07.03.2018
Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.