

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

**CRM-M-839 of 2019
DATE OF DECISION:-11.01.2019**

GURMUKH SINGH

...PETITIONER...

V.

STATE OF HARYANA AND ANR.

...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ravi Dutt Sharma, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing/setting aside impugned order dated 31.07.2018 (P-7), whereby revision filed by respondent No.2 against order dated 20.06.2017 (P-6) of the trial court, releasing the tractor on superdari to the petitioner has been set aside with direction to trial court to pass a fresh order on the application considering the factum of death of true owner.

Learned counsel for the petitioner contends that the revisional court has wrongly observed that the petitioner is having power of attorney of deceased-owner of the Tractor in question, ordered to be released on superdari by the Id. Magistrate vide order dated 20.06.2017 (P-6). In fact, the petitioner is armed with agreement to sell dated 22.07.2003 (P-2) in his favour, whereby, original owner (deceased) Mangal Singh had sold the

tractor in question to the petitioner on receipt of full and final sale consideration. Even, the police in its report dated 19.06.2017 (P-5) submitted before the concerned learned Magistrate, admitted that original owner-Mangal Singh has sold the tractor to the petitioner.

After having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds instant petition merits acceptance for the reasons that the petitioner is having agreement to sell dated 22.07.2003 (Annexure P-2) in his favour allegedly executed by original owner of the tractor, which has been ordered to be released on superdari by the ld. Magistrate vide order dated 20.06.2017 (P-6).

The complainant having some grouse against the petitioner preferred revision objecting the release of tractor in question to the petitioner on superdari.

The revisional court vide impugned order dated 31.07.2018 (P-7) remanded the case back to the trial court to pass a fresh order considering the factum of death of true owner. There is no necessity to consider the case a fresh in view of death of true owner, inasmuch as, the petitioner is having an agreement to sell (P-2) executed by the original owner in his favour, which, till date has not been disputed and proved to be false by anyone or even by the complainant. That apart, condition of the tractor shall deteriorate, while parking in the police station in open and unattended.

In view of the above, the impugned order dated 31.07.2018 (P-7)

passed by ld. Additional Sessions Judge, Kurukshetra is set aside and

order dated 20.06.2017 (P-6) of the 1d. Sub Divisional Judicial Magistrate,
Pehowa is upheld.

Disposed of.

11.01.2019
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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:	Yes/No
whether reportable:	Yes/No