

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

133

CRM-M-35345-2018

Date of Decision:26.08.2019

Ram Chander

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Prabhjeet Singh Sullar, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Sushil Sheoran, Advocate,
for the complainant-respondent No.2.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for setting aside the order dated 23.03.2017(Annexure P-1) passed by learned Additional Sessions Judge, Exclusive Court, Bhiwani, whereby revision petition filed by the petitioner against the order dated 04.11.2016 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Charkhi Dadri, was dismissed.

Power of attorney filed on behalf of respondent No.2-complainant today in the Court, is taken on record.

Vide order dated 04.11.2016(Annexure P-2), the application filed by the petitioner before learned Judicial Magistrate 1st Class, Charkhi Dadri, to release the vehicle bearing registration No.HR-19J-0192 on

superdari, was dismissed.

Learned counsel for the petitioner has argued that the order dated 04.11.2016(Annexure P-2) passed by learned Judicial Magistrate 1st Class, Charkhi Dadri and the order dated 23.03.2017(Annexure P-1) passed by the Revisionary Court are not sustainable in the eyes of law. In fact, the petitioner is father-in-law of the deceased-Asha who was married with Anil and she committed suicide on 15.04.2016. The FIR was got registered at the behest of Virender, who is brother of the deceased-Asha. In the present FIR, petitioner and his entire family members have falsely been roped, but during the course of investigation, the petitioner was found innocent. Though the prosecution had moved an application under Section 319 Cr.P.C. so as to summon the present petitioner to face trial, but since there was no evidence against the petitioner, the trial Court has declined the application vide order dated 05.10.2016. The order of dismissal this application under Section 319 Cr.P.C. was challenged by the complainant before this Court by way of CRR-3971-2016 and the said revision petition was also dismissed on 27.07.2017. He further states that the petitioner is the registered owner of the vehicle in question and so long as the issue is not settled during the trial, the vehicle lying with the police station would not only invite depreciation, rather with the passage of time, the vehicle would not remain fit to be used. He refers to judgment of the Hon'ble Apex Court in **Sunderbhai Ambalal Desai Versus State of Gujarat, 2003(1) R.C.R. (Criminal) 380** and the judgment of this Court in **Kailash Chander Bajaj @ Kailash Chander Versus State of Haryana, 2018(2) R.C.R. (Criminal) 330.**

On the other hand, learned counsel for respondent No.2-

complainant has argued that the vehicle sought to be taken on superdari was given in dowry by the complainant and the family members of the deceased had handed over the key of the car to the petitioner. Therefore, it being a dowry article cannot be given to the petitioner, more specifically when it was entrusted to him only.

Heard learned counsel for the parties.

It is not in dispute that the petitioner is the registered owner of the vehicle. The question as to whether the said vehicle was given in the dowry or otherwise, is yet to be established during the course of trial. Moreover, the petitioner who was otherwise made an accused in the FIR has been found innocent by the police during the course of investigation. Even the attempt made by the complainant to summon the petitioner as an additional accused in the proceedings under Section 319 Cr.P.C. was not found sustainable. Accordingly, the petitioner was not summoned to face trial. As on relevant date, the vehicle in question is lying in the police station as a case property for a considerable long time and in case the same is not being allowed to be used, it will reduce into junk and will not be of any use.

Therefore, without making any observations as to who is entitled to have an ultimate claim over the vehicle in question, but considering the limited prayer of the petitioner to release the vehicle on superdari, this Court finds that the petitioner being its registered owner is held entitled to get the vehicle in question released on superdari.

Even the Hon'ble Apex Court in Sunderbhai Ambalal Desai's case(supra), has observed in paragraph 17 as under:-

“In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It

is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

In the light of aforesaid judgment, the present petition is hereby allowed and the orders dated 23.03.2017(Annexure P-1) passed by learned Additional Sessions Judge, Exclusive Court, Bhiwani, whereby revision petition filed by the petitioner against the order dated 04.11.2016 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Charkhi Dadri, was dismissed, are hereby set aside. The trial Court is directed to release the vehicle in question to the petitioner on superdari on such terms & conditions as it may deem fit in the peculiar facts and circumstances of the case.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the main trial of the case and is limited for the controversy decided in this case only.

August 26, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No