

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52427-2018
Date of Decision: 3.7.2019

Sudesh Kumar

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vikas Bishnoi, Advocate, for the petitioner.

Mr. Pradeep Sharma, AAG, Haryana.

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Harnaresh Singh Gill, J.

Challenge in the present petition is to the order dated 25.09.2018 passed by the learned Sessions Judge, Hisar, to the extent of confiscating the motorcycle bearing No. HR-20AJ-1810, used in the commission of offence, which was recovered from the place of occurrence and was unclaimed.

As per the counsel for the petitioner, petitioner-Sudesh Kumar is the registered owner of the motorcycle. The same was given to him on *superdari* vide order dated 17.1.2018 passed by the Sessions Judge, Hisar. Vide order dated 25.9.2018, the trial Court acquitted accused Vikas alias Kaliya and Deepak alias Chiku of the charges levelled against them by extending them benefit of doubt, as their identity remained unascertained. However, the aforesaid motorcycle was ordered to be confiscated without applying any judicious mind.

Learned State counsel has not disputed the factum of release of the motorcycle in question on *Superdari* vide order

dated 17.1.2018 by the learned Sessions Judge, Hisar. However, it is contended that the same has been ordered to be confiscated on the ground that it was used in the alleged occurrence.

Indisputably, the motorcycle in question was ordered to be released on *Superdari* vide order dated 17.1.2018 passed by the learned Sessions Judge, Hisar. The factum of the accused, namely, Vikas alias Kaliya and Deepak alias Chiku, having been acquitted by the learned trial Court vide order dated 25.9.2018, by giving them benefit of doubt, is also not disputed.

Keeping in view the above facts and circumstances, the present petition is allowed. The order dated 25.9.2018 passed by the Sessions Judge, Hisar, to extent of ordering the confiscation of motorcycle bearing HR-20AJ-1810, is set aside. As a consequence, it is directed that the said motorcycle be handed over to petitioner Sudesh Kumar, but after checking the authenticity of the ownership documents.

03.07.2019
Gurpreet/ds

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No