

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

**CRA-S-1361-SB-2006
Date of decision:-13.3.2020**

Malkiat Singh

....Appellant

Versus

State of Punjab and another

....Respondents

CORAM : HON' BLE MR. JUSTICE H.S. MADAAN

Present : Mr.M.K. Singla, Advocate
for the appellant.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

H.S. MADAAN, J.

Briefly stated, facts of the case as per the prosecution version are that accused Harwinder Singh son of Jang Singh, resident of Nagla, Police Station Sunam, District Sangrur faced trial in FIR No.105 dated 8.4.2005 for the offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the Act), registered with Police Station Sunam on the allegations that on 8.4.2005 at about 2:00 p.m., a police party headed by Inspector Balwinder Singh, SHO of Police Station Sunam while present on the bridge of Canal minor on Shahpur Kalan – Cheema Link road in the area of village Shahpur Kalan had intercepted the car mark Opel of white colour bearing registration No.DL4CF/6245 coming from village Cheema side. It was being driven by Harwinder Singh – accused. The

car was searched and contraband in the form of poppy husk being carried in five gunny bags was recovered from the diggy of the car. Each bag was containing 35 kgs. of poppy husk. Samples were drawn therefrom. Accused was arrested. The contraband was taken into possession. The car along with its registration certificate was taken into police possession.

On conclusion of trial, Judge, Special Court, Sangrur vide judgment dated 15.4.2006 acquitted the accused of the charge framed against him. Whereas with regard to the car bearing No.DL4CF/6245, it was ordered to be confiscated to the State.

Malkiat Singh claiming ownership of the car has challenged that judgment by way of filing the present appeal before this Court. The appeal was admitted vide order dated 24.10.2006. The car was ordered to be released on superdari to the applicant/appellant after taking adequate security and on certain conditions mentioned in the order dated 7.12.2006.

I have heard learned counsel for the parties besides going through the record.

A perusal of the impugned judgment goes to show that during trial Sukhjit Singh, Clerk from the office of DTO, Sangrur had appeared as PW7 and stated that the car had been transferred in the name of Jit Singh son of Joginder Singh, resident of Bhasaur. He had proved entry in the RC as Ex.P2. PW8 Amarpreet Singh had stated that he had sold the car of his father to one Malkiat Singh for a sum of Rs.1,30,000/- on 5.4.2005 receiving Rs.1,20,000/-, handing over the car to Malkiat Singh on the same day and he had furnished an affidavit

Ex.PM in that regard. PW9 Ajit Singh had stated that he was away to Hazoor Sahib and his son Amanpreet Singh had sold his car for a sum of Rs.1,30,000/- since they were in need of money. PW10 Malkiat Singh(present appellant) had deposed that he did not remember the number of the car but he had purchased it from Amanpreet Singh. The car was not registered in his name. He stated that Harwinder Singh is not related to him and on 7.4.2005 Harwinder Singh had not taken the car from him.

Evaluating such evidence, learned Judge, Special Court, Sangrur in para No.14 of the impugned judgment has observed that PW8 Amanpreet Singh alleged that the vehicle belonging to his father was sold by him to PW10 Malkiat Singh but the document appears to be ante dated since though the date of purchase of stamp is shown to be 6.4.2005 but in the body of the document it is having date 6.5.2005, therefore, the story regarding sale of car does not appear to be genuine inasmuch as PW10 Malkiat Singh the alleged owner of the car could not tell the number of the car owned by him.

Certainly those observations need thorough consideration. The whole story set up that son of the registered owner had sold his car in his absence appears to be highly improbable and unconvincing. How could son of registered owner sell the car on his behalf in his absence without any authorization and even if he did so that did not pass any valid title to the alleged transferee. The whole transaction is shrouded by suspicious circumstances. The appellant Malkiat Singh, alleged transferee was unable to tell the registration number of the car when his statement was recorded during trial. Even if, it is taken that he had

purchased the car from the registered owner then until and unless he gets the car transferred in his name from the competent registration authority, the registered owner retains the title. Therefore, the present appellant is not shown to have any right or concern with the car in question since he is neither registered owner nor recorded valid transferee in the registration certificate. He has no locus standi to file the present appeal claiming that the car in question be taken to him.

Sub Section 3 of the Section 60 of the Act provides that any animal or conveyance used in carrying any narcotic drug or psychotropic substances etc. shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.

As per the prosecution story, the car in question was being used for drug trafficking. Though Harwinder Singh, the person, who was driving the car was acquitted mainly for the technical reasons but as far as confiscation of the car in question is concerned, no fault can be found with the order of Judge, Special Court, Sangrur in that regard. The present appellant is nobody to challenge the order and he is wrongly projecting himself as owner of the car when there is nothing on record to show that he acquired a valid title of the car being transferee from the registered owner.

Therefore, the appeal lacks merit and is dismissed accordingly.

The appellant is directed to surrender the car in question in

the Court of Chief Judicial Magistrate, Sangrur within 15 days from today and in case the car is not produced, learned Chief Judicial Magistrate, Sangrur would issue necessary warrants to take possession of the car and take action against the present appellant, who has given undertaking and furnished bonds for the purpose of getting the car released on superdari.

13.3.2020
Brij

(H.S.MADAAN)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No