

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-47180 of 2018 (O&M)

Date of decision : 21.1.2020

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Gayur

.....Petitioner

vs.

State of Haryana and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

...

Present: Mr. Sushil Jain, Advocate for the petitioner.

Ms. Dimple Jain, Assistant Advocate General, Haryana.

Mr. Sanawar Ali, Advocate for respondent No.2.

...

H. S. Madaan, J. (Oral)

By way of filing the present petition, petitioner Gayur, who is registered owner of truck make TATA LPT bearing registration No. DL1GC-0493, Model 01/2012, chassis No. MAT457403CH31748, engine No. 497TC92HXY845642, seeks setting aside of order dated 21.9.2018 passed by Additional Sessions Judge, Sonapat and order dated 3.7.2018, passed by Additional Chief Judicial Magistrate, Sonapat, dismissing his application for release of the vehicle on Superdari.

The facts of the case, as they come out from perusal of the record are that Smt. Krishna w/o Surender, had agreed to purchase this truck from the petitioner for a sum of Rs.7.25 lacs giving a sum of Rs.1,70,000/- as advance and remaining amount was agreed to be paid upto 20.5.2018. The petitioner had handed over the custody of

the vehicle to the purchaser and executed a power of attorney in her favour also. Subsequently a dispute took place between them. The petitioner approached the police of Police Station, Sadar, Sonapat, with the request that custody of truck be got delivered to him. On that complaint, notice was given to Smt. Krishna, who had appeared alongwith truck. The truck is lying parked in the premises of that police station. The petitioner had moved an application for release of the truck on superdari. That application was misconceived since the petitioner being registered owner of the truck, need not have asked for release of truck on superdari, more particularly when no criminal case had been registered with regard to the said truck. Nevertheless the Additional Chief Judicial Magistrate, Sonapat, had declined that request. Appeal filed against that order was also dismissed by Additional Sessions Judge, Sonapat. As such the petitioner has approached this Court by way of filing the present petition, notice of which was given.

State- respondent No.1 has put in appearance through Ms. Dimple Jain, Assistant Advocate General, Haryana, whereas respondent No.2 has put in appearance through Mr. Sanawar Ali, Advocate.

I have heard, learned counsel for the petitioner, learned State counsel and learned counsel for respondent No.2, besides going through the record.

Learned counsel appearing for respondent No.2 -Smt.

Krishna, has stated that Smt. Krishna had paid a sum of Rs.1,70,000/-

to the petitioner and was given possession of the truck, power of attorney was also executed by Gayur in her favour. Therefore, she should be allowed to have possession of that truck. Whereas learned counsel for the petitioner submits that Smt. Krishna has not paid the balance amount as such the petitioner being registered owner of the truck is entitled to get its possession.

Though learned counsel for respondent No.2 has contended that petitioner has not complied with the terms and conditions of the agreement but as the things stand, I find that since petitioner is registered owner of the truck in question and the sale transaction has not been completed and no criminal case with respect to the vehicle has been registered, the petitioner is entitled to get possession of that truck. If Smt. Krishna has got any grouse with regard to violation of the terms and conditions of the agreement, she can seek her remedy in that regard in court of law. But she cannot retain possession of the truck under such circumstances.

Therefore, the petition is accepted. The impugned order dated 21.9.2018 passed by Additional Sessions Judge, Sonapat and order dated 3.7.2018, passed by Additional Chief Judicial Magistrate, Sonapat, are set aside and custody of the truck is ordered to be given to the petitioner.

21.1.2020

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**(H.S. Madaan)
Judge**

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No