

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

219

CRM-M-1107 of 2020

Date of decision :-07.01.2021

Sarabjit Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Lakhwinder Singh Mann, Advocate for the petitioner.

Mr. Mehardeep Singh, Addl. AG, Punjab
for State-respondent No.1.

None for respondent No.2.

SUVIR SEHGAL, J.

The hearing of this petition has been taken up through video conferencing on account of outbreak of Covid-19 Pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure (for short “the Code”) seeking quashing of order dated 27.09.2018, Annexure P-3, passed by SDJM, Phillaur and order dated 17.11.2018, Annexure P-4, passed by Additional Sessions Judge, Jalandhar vide which revision petition filed by the petitioner against the abovesaid order was dismissed and the application under Section 451 of the Code for release of truck bearing registration No.PB-07AE-0588 on ‘sapurdari’ stood declined.

Facts, in brief, are that FIR No.192 dated 14.07.2018 was registered under Sections 406, 420, 34 of the Indian Penal Code, 1860 at Police Station Phillaur, District Jalandhar (Rural), Annexure P-2, on the complaint of Mangal Singh-respondent No.2 wherein he stated that he had

purchased the truck in dispute from the petitioner and had given him part

payment and had taken the possession of the vehicle. However, the petitioner accompanied by two accused, came and forcibly snatched the vehicle from him. After the registration of the FIR, an application under Section 451 of the Code was filed by the petitioner for release of the truck to him during the pendency of the trial. The application was dismissed by the trial Court vide order dated 27.09.2018, Annexure P-3, which was upheld by the revisional Court on 17.11.2018, Annexure P-4. Hence, this petition impugning the said orders.

Counsel for the petitioner has referred to the certificate of registration, Annexure P-1, to contend that the petitioner is the registered owner of the truck in dispute and is, therefore, entitled for release thereof in his favour during the pendency of the proceedings before the trial Court. He submits that the first petition (CRM-M-35501-2019) was withdrawn by the petitioner on 18.12.2019 as there was possibility of compromise between the parties.

Notice of motion of the petition was issued by this Court on 14.01.2020. The complainant-respondent No.2 was served and Shri T.S. Grewal, Advocate appeared on his behalf before this Court on 23.09.2020. Reply by way of affidavit has been filed by the State-respondent No.1.

Counsel for the State on the basis of the record has argued that as there is a dispute regarding the ownership of the vehicle, both the Courts have rightly declined to entertain his application for release of the vehicle on 'sapurdari'.

I have considered the rival submissions of the parties.

The issue is no longer *res integra*. The Hon'ble Supreme Court in **Rajendra Prashad versus State of Bihar, 2002 (2) RCR (Criminal)**

812 has held as under:-

“We are not deciding the question as to the title of the vehicle in dispute nor the correctness of the rival versions regarding the transactions relating to the vehicle. We do not want the vehicle to remain in the compound of the Police Station exposed to heat and cold because the automobile is likely to be lost to all in such situation. To avert this situation, we are inclined to entrust it temporarily to the appellant who is the ostensible name-holder in the registration certificate. The custody of the vehicle with the appellant will be on behalf of the Court and this arrangement is only till the stage when the Court passes the order regarding disposal of the property on the conclusion of the trial.....”

This Court in **Naf Singh versus Devender Kumar, 2004 (1) RCR (Criminal) 987** and in **Narinder Kumar Singla versus State of Punjab and another, 2006 (3) RCR (Criminal) 890** held that ‘sapurdari’ is to be given to a person who is found to be the owner of the vehicle or is an ostensible owner and this is normally to be determined from the fact as to in whose name the vehicle stands registered. A co-ordinate Bench of this Court in **Hardam Singh versus Vidyasagar, 1974 Criminal Law Journal 1158** while interpreting the provisions of the Motor Vehicles Act, 1939 (now repealed) observed as under: -

“It follows from these Sections 22, 23, 24, 28 and 31 of the Motor Vehicles Act referred to above that the registration certificate is an essential necessity before any motor vehicle can be made use of and that any person in whose favour the certificate of registration is

issued obviously would be the owner thereof. Till any transfer of ownership is effected in the certificate of registration, one has to take it that the person in whose favour such a certificate is issued by the Motor Transport Authorities is the owner and thus is entitled to remain in possession thereof.”

The registration certificate, Annexure P-1, shows that the truck in dispute is registered in the name of the petitioner. This certificate has not been denied by the State in its reply. Nothing to the contrary could be brought to the notice of this Court to show that the registration of the vehicle stood transferred in the name of the complainant-respondent No.2 or any other person. Additionally, it may be noticed that even the complainant-respondent No.2 had filed an application under Section 451 Cr.P.C. for release of the vehicle on ‘sapurdari’ to him, which was dismissed by the trial Court vide order dated 21.12.2018, Annexure P-5. An examination of the order shows that the petitioner while objecting to the application of complainant-respondent No.2 had taken a stand that he is the registered owner of the vehicle. This factual position was not disputed by complainant-respondent No.2 in his reply to the objection. Consequently, this Court is of the view that the petitioner, who is the prima facie owner of the truck in dispute, is entitled to its custody and the impugned orders are liable to be set aside.

In view of the above discussion, orders dated 27.09.2018, Annexure P-3, and 17.11.2018, Annexure P-4, are set aside. The truck in dispute is ordered to be released on ‘sapurdari’ in favour of the petitioner on his furnishing ‘sapurdari’ bond to the satisfaction of the concerned trial

Court/Duty Magistrate/SDJM, subject to the condition that the petitioner will give an undertaking to the effect that: -

- (i) he will preserve the said vehicle in the same condition during the pendency of the trial;
- (ii) he will not dispose of the same during the pendency of the trial;
- (iii) he will produce the vehicle before the Court as and when so ordered by the trial Court; and
- (iv) the vehicle will not be involved in any criminal case.

In case of violation of any of the above conditions, it will be open for the prosecution to seek cancellation of the 'sapurdari' bond.

The revision petition is accordingly disposed of.

07.01.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No