

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

CRM-M-12349-2018

Reserved on:09.03.2022

Date of Decision:March 28, 2022

Ram Deep

...Petitioner

Versus

State of Haryana and others

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Jagjeet Beniwal, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

\*\*\*\*

ANOOP CHITKARA, J.

The petitioner seeking issuance of necessary directions to respondents for initiation of legal action against the police officials, who had stolen bike of the petitioner from his shop. Petitioner claiming to be the owner of the said bike and has come up before this Court under Section 482 Cr.P.C.

2. The petitioner states that he was running a shop at Pinjore since 2015. In the intervening night of 20/21.09.2016 his motorcycle bearing registration No.HR-01 AD 9855 was parked in his shop and the shutter of the shop was down. In the morning, his friends noticed that his bike was missing and they went to Police Station. On reaching there, the police officials asked about the Insurance and RC of the Bike and told them that without such documents, they could not register the FIR. On this, the petitioner and his friends check the CCTV footage of the adjacent shops. They noticed that in the midnight at around 2:05 AM, PCR (Tavera) came there and they took bike from the shop. On this, the petitioner along with 4-5 neighbours went to Assistant Police Commissioner, Kalka and informed him about the whole incident. However, they were disappointed. The petitioner also went to Superintendent of Police but of no avail. After moving from pillar to pillar, no other option was left to the petitioner but to approach this Court.

3. Learned State counsel has filed its reply by way of an affidavit of Assistant Commissioner of Police, Kalka, Panchkula, the relevant part of the same is extracted as under:-

*"1. That the brief-facts of the case are that on dated 20-09-2016 ASI Pardeep Kumar was Senior Duty Officer in the Police Station Pinjore. At 1.45 AM ASI Vinod Kumar In-charge PCR sent a wireless message that the shop in the name of Japani Steel Works is lying open near the Vita Booth on the Nalagarh Road and one motor cycle, Honda CD DLX bearing number HR 01 AD 9855 is standing in front of shop without lock. Key was lying in it. Search was made but no one*

*was found. On the information ASI Pardeep Kumar alongwith other police official reached at the spot. Photographs of the shop were taken through the mobile and shop was locked. Motor cycle was taken into possession under section 102 Cr.PC and brought to the police station. On the next day petitioner came in the police station to lodge complaint about the theft of his motor cycle. Petitioner was informed by the police officials that motor cycle. is lying in police the station and he can get it released by showing the ownership proof of the same. But petitioner failed to do so. In this regard DDE No 22 dated 14-10-2016 at about 18:43 was recorded in the rojnamcha of Police Station Pinjore.*

2. *That on the verification of record of the motorcycle it was found that owner of the motor cycle is one Khem Raj S/o Bhoop Chand R/o House No. 66-A, New Colony Rampur Police Station Mahesh Nagar, Ambala Cantt. In this regard his statement was also recorded. He has stated in his statement that Motor Cycle. bearing No. HR-01AD-9855 was purchased by him and the said motor cycle was sold by his son Pushap in Kalka He doesn't know to whom he has sold the said motor cycle. Statement of Khem Raj is annexed herewith as Annexure R-1,*

3. *That the petitioner is filing false complaints by levelling false allegations upon the police officials and not producing the proof of ownership of the motor cycle. Petitioner was directed to produce the documents of ownership of the motor cycle and then he can get his motor cycle released from the learned court.*

4. The police also annexed statement of Khem Raj as Annexure R-1, in which it was not the case of stolen bike but his son had sold the bike in Kalka. He further stated that his son can disclose the fact that where he had sold the bike. The Investigator did not enquire from Pushraj for deciding the fact that Pushraj was the owner of the bike or not. The ACP Kalka also without looking into that aspect filed the present affidavit in this court.

5. Khem Raj, the father of the bike owner, states that his son Pushap Khem Ram had sold the motorcycle bearing regd. No. HR-01AD-9855 to a person in Kalka; however, he could not recollect the name. None except the petitioner claims its possession. There is no report of theft of this motorcycle bearing regd. No. HR-01AD-9855, except the complaint made by the petitioner. Thus, the petitioner's prayer about the lawful possession of the motorcycle bearing regd. No. HR-01AD-9855 remains un rebutted.

6. Consequently, the petitioner may apply to the concerned court for its release. If such an application is filed, and wherein the petitioner declares that he had purchased the bike from the registered owner, then in such a situation, after recording her satisfaction, the concerned judicial magistrate shall consider handing over of the possession of the motorcycle in question to the petitioner, keeping in view the observations mentioned above.

7. The Assistant Commissioner of Police, Kalka shall ensure that the bike is returned in working order and running condition because it is not the case of the police that when it was seized, then at that time it was not in a working order and running condition or was lying as a junk or an abandoned vehicle. The necessary repairs shall be

carried out within fifteen days, if applicable.

Petition partly allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)  
JUDGE

March 28, 2022  
Sonia arora

Whether speaking/reasoned: Yes  
Whether reportable: **No.**