

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5230-2022 (O&M)

Date of Decision: 13.07.2023

Gurwinder Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sukhjit Singh, Advocate, for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a petition filed under Section 482 of the Code of Criminal Procedure for quashing of order dated 10.12.2021 (Annexure P-3) passed by learned Sub Divisional Judicial Magistrate, Garhshankar and also judgment dated 13.01.2022 (Annexure P-5) passed by learned Additional Sessions Judge, Hoshiarpur.

2. Learned counsel appearing on behalf of the petitioner has submitted that vide aforesaid impugned order dated 10.12.2021 (Annexure P-3) passed by learned Sub Divisional Judicial Magistrate, Garhshankar, the application filed by the petitioner for release of JCB 3DX BCK Yellow colour bearing temporary registration No.HR-38Q-5464 has been dismissed erroneously and on a revision being preferred against the aforesaid order, the learned Additional Sessions Judge, Hoshiarpur vide Annexure P-5 also

dismissed the revision on erroneous grounds. He submitted that an FIR was lodged vide Annexure P-1 under Section 21 (1) of Mines and Minerals (Development and Regulations) Act, 1957 against unknown persons by alleging that there had been illegal mining on the fields of village Ghaggo Roranwali and one JCB without any number and colour Yellow chassie No.1816410A2012 and tractor trolley loaded with soil, colour red and blue Mahindra Arjan Ultra 555 without number were caught while doing illegal mining. The drivers of the vehicles ran away after seeing the checking team. The petitioner filed an application for release of the aforesaid JCB but the same has been dismissed on the ground that the vehicle was only having a temporary number but was not having any permanent registration number and almost 9 years have elapsed since the JCB was purchased in the year 2012 and it has not only caused loss to the government exchequer but also violated the provisions of the Motor Vehicles Act and therefore, the application for grant of superdari was dismissed. He submitted that on revision being filed, the same was also dismissed on the same grounds. He submitted that the petitioner had filed the application as a special power of attorney holder of one Charanjiv Lal son of Kamal Dev who was the owner of the JCB machine and therefore, the same ought to have been released to the petitioner since keeping the vehicle in the police custody for long time would not serve any purpose and the vehicle may decay and therefore, both the orders passed by the learned trial Court and the Revisional Court may be set aside.

3. On the other hand, learned Deputy Advocate General, Punjab while referring to the affidavit filed by the Deputy Superintendent of Police,

Sub Division, Garhshankar submitted that the petitioner is not entitled for the grant of superdari in view of the fact that the petitioner is not the owner of the vehicle and he is a stranger. He submitted that the vehicle which was confiscated on the spot was not even registered before the Registration Authorities and therefore, it cannot be said that even the aforesaid Charanjiv Lal was the owner of the vehicle since the vehicle was not registered in his name and it was only a temporary number given at the time of the sale of the vehicle, if at all. He further submitted that there is no document on the record to show that the aforesaid Charanjiv Lal was the owner of the vehicle. He further submitted that a vehicle cannot be transferred to anybody without following due process of law before the Registration Authorities and the change of ownership would occur only under the provisions of law through re-registration process. He submitted that the vehicle itself was not registered after its purchase and no permanent number was given to the vehicle and the petitioner, being a total stranger, the superdari cannot be handed over to the petitioner and has therefore prayed for the dismissal of the present petition.

4. I have heard the learned counsel for the parties.

5. The petitioner has claimed the superdari of the vehicle which was confiscated by the police at the time of the registration of the FIR Annexure P-1 in the year 2021. The aforesaid vehicle is stated to have been purchased by one Charanjiv Lal in the year 2012. Almost 12 years have elapsed that the vehicle has not been registered with the Registration Authorities. However, one temporary number stated to have been taken by the aforesaid Charanjiv Lal ought to have expired because temporary

number usually does not continue after a specific period of time. There is nothing on the record to show that the aforesaid Charanjiv Lal got the vehicle. Be that as it may so far as the locus of the present petitioner is concerned, he is stated to have purchased the vehicle from the aforesaid Charanjiv Lal but a vehicle cannot be transferred unless a proper procedure is followed through the Registration Authorities under the Motor Vehicles Act. One special power of attorney has been attached as Annexure P-6 to show that the vehicle was purchased by the petitioner but the same could not have been done without following the proper procedure. The application has been filed by the petitioner before the learned trial Court as a special power of attorney holder of Charanjiv Lal. However, the vehicle itself has not been registered in the name of the aforesaid Charanjiv Lal and therefore, so far as the present petitioner is concerned, he has no locus to file such an application being a stranger.

6. This Court therefore does not find any merit in the present petition and consequently, the present petition is dismissed.

7. However, at any stage in case steps are taken for getting the vehicle registered in accordance with law and a rightful owner or any person authorised under the law files any fresh application for grant of superdari, then the learned Magistrate shall consider the same and decide the same in accordance with law as expeditiously as possible.

13.07.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No