

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRM-M-10428-2020 (O&M)
Date of Decision: May 24, 2023

Ritu

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Lekh Raj Sharma, Advocate,
for the petitioner.

Vivek Puri, J.

CRM-46570-2022

1. This is an application for placing on record the statement of respondent no.2 as Annexure P-6.
2. The same is taken on record.
3. Registry is directed to tag the same at the appropriate place.
4. CRM stands disposed of.

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5. The petitioner has assailed the order dated 18.09.2017 passed by the Court of learned Additional Chief Judicial Magistrate, Panipat and judgment dated 12.12.2019 passed by the Court of learned Additional Sessions Judge, Panipat, vide which the jewellery items have

been ordered to be released in favour of respondent no.2, who is husband of the petitioner.

6. Learned counsel for the petitioner contends that the petitioner has been arraigned as an accused in the case bearing FIR No. 778, dated 04.08.2017, under Sections 380/120B of the Indian Penal Code (for short 'IPC'), registered at Police Station Chandani Bagh, Panipat and is facing trial in the Court of learned Additional Chief Judicial Magistrate. The allegations against the petitioner are to the effect that she had committed theft of golden jewellery from the house of the respondent no.2/complainant, who is her husband. Manoj, the complainant, who is the husband of the petitioner, had moved an application in the trial Court for release of the jewellery items on superdari and the same has been ordered to be released on furnishing superdaginama in the sum of Rs. 5,00,000/- with one surety in the like amount, in terms of the order dated 18.09.2017 passed by the Court of learned Additional Chief Judicial Magistrate.

7. The petitioner preferred a revision petition against the aforesaid order. The petitioner had also moved an application for condonation of delay, but the same was dismissed and consequently, the revision petition was also dismissed being time barred in terms of the judgment dated

12.12.2019 passed by the Court of learned Additional Sessions Judge.

8. It has been submitted that in fact, the petitioner is the owner of the jewellery, which has been alleged to be stolen. The said articles constitute her istridhan and the complainant is wrongly claiming the ownership thereupon.

9. On a query, the learned counsel for the petitioner has not disputed the fact that the charge under Section 380 IPC has been framed against her by the learned trial Court.

10. The learned counsel for the petitioner further submits that he restricts his prayer only to the extent that the respondent no.2 be directed to return back the articles of istridhan and submit the same in the trial Court.

11. It may be mentioned here that the FIR has been lodged at the instance of respondent no.2, who is the husband of the petitioner. There are allegations with regard to theft of golden ornaments attributed against the petitioner. In the event, the petitioner claims her ownership over the articles in question and also establishes this aspect of the matter during the course of trial, the trial Court can pass an appropriate order with regard to the disposal of the case property at the time of final adjudication. Moreover, in the event the articles have been released to the respondent no.2/complainant on superdari, the same is only an interim arrangement for the custody of the articles during the

course of trial. The superdar holds the articles as a trustee of the Court and is bound to produce the same as and when directed to do so. Even in the impugned order dated 18.09.2017, it has been specifically directed that the complainant shall produce the articles in question as and when called either by the Investigating Officer or by the Court. It will be too early to conclude that the jewellery items are ownership of the petitioner and she becomes entitled to the custody thereof. This aspect of the matter is to be looked into by the trial Court on the basis of the evidence that may be adduced before it.

12. The limited prayer made by the learned counsel for the petitioner to the effect that the respondent no.2/complainant be directed to return back the articles of istridhan and submit the same in the trial Court, is not liable to be accepted on the score that the articles had only been released on superadari and the entitlement of the person to finally receive the same will be subject matter of final adjudication of the case by the trial Court.

13. The instant petition is dismissed, accordingly.

May 24, 2023
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(Vivek Puri)
Judge

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