

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

CRM-M No.21646 of 2015
Date of decision: 23rd January, 2023

Kewal Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Onkar Rai, Advocate for the petitioner.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondents No.1 and 2/State.

Mr. Amandeep S. Manaise, Advocate for respondent No.4.

MANJARI NEHRU KAUL, J.

Instant petition has been filed under Section 482 Cr.P.C. for quashing of order dated 03.01.2015 (Annexure P-6) passed by learned Judicial Magistrate 1st Class, Ludhiana vide which custody of the vehicle i.e. Combine bearing registration No.HR-05G-9972 was handed over to respondent No.5 on Superdari.

Learned counsel inter alia contends that the trial Court, while passing the impugned order, ignored that respondent No.4 was the true registered owner of the vehicle in question (Combine bearing registration No.HR-05G-9972), therefore, it could not have been released on Superdari to respondent No.5. He further contends that the affidavit on the basis of which respondent No.5 is claiming ownership, has no sanctity in the eyes of law, as in the absence of a valid

registration, title of the vehicle could not have been passed on to him. Furthermore, respondents No.4 and 5 failed to comply with the provisions of Section 50 of the Motor Vehicles Act, 1988, hence, in the circumstances, respondent No.4 was not entitled to be given possession of the vehicle.

Per contra, learned counsel for respondent No.4 contends that the vehicle in question was rightly released to respondent No.5 by the trial Court as its ownership stood transferred to him by way of an affidavit and mere failure to transfer the ownership in the registration certificate would not disentitle him from taking possession of the vehicle.

Learned State counsel on instructions has not disputed that respondent No.4 was the registered owner of the vehicle in question.

I have heard learned counsel for the parties and perused the relevant material on record.

Admittedly, respondent No.4 was the registered owner of the vehicle in question and respondent No.4 is claiming its ownership on the basis of an affidavit. In proceedings under Section 457 Cr.P.C., the Magistrate is not required to undertake an elaborate inquiry qua the entitlement of a person to the possession of the seized property. Furthermore, it is also a settled law that a person who is not the owner, may also be entitled to take possession of the seized property, provided he is able to prima facie satisfy the Court qua his right. In the present case, since respondent No.5 is claiming ownership on the basis of an

affidavit, it would be appropriate for the trial Court to pass a speaking order recording its satisfaction qua entitlement or otherwise of the respondent No.4 qua possession of the vehicle in question.

As a sequel to the above, the impugned order is set aside and the matter is remanded back to the trial Court to pass a fresh order in accordance with law, after hearing registered owner of the vehicle i.e. respondent on.4 and taking into account any such material as it may deem fit. The trial Court shall make earnest efforts to decide the matter within four weeks from the receipt of a certified copy of this order.

Disposed of.

Anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

January 23, 2023
rps

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