

(2006) 11 P&H CK 0146**High Court Of Punjab And Haryana At Chandigarh****Case No:** Criminal Miscellaneous No. 33928-M of 2006

Pardeep Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Nov. 8, 2006**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 376

Citation: (2007) 1 RCR(Criminal) 284**Hon'ble Judges:** Satish Kumar Mittal, J**Bench:** Single Bench**Advocate:** Parminder Singh, for the Appellant; M.S. Sindhu, D.A.G., for the Respondent**Final Decision:** Allowed

Judgement

Satish Kumar Mittal, J.

Petitioner Pardeep Kumar has filed this petition u/s 482 of the Code of Criminal Procedure for setting aside the order dated 10.5.2006, passed by Additional Sessions Judge, Karnal, whereby application filed by the petitioner for releasing car bearing registration No. DL-8CF-7665, which was taken into custody by the police in case FIR No. 191 dated 13.5.2005 registered at Police Station Civil Lines Karnal under Sections 376, 328, 342, 384, 506, 120-B IPC, has been dismissed on the ground that he is not the registered owner of the car.

2. It is the case of the petitioner that the aforesaid car was taken into possession from one Anand Verma and was impounded in the aforesaid case on the ground that the same was used by the accused in the alleged offence. The accused in the aforesaid FIR was acquitted on 22.10.2005. Thereafter, the instant application was filed by the petitioner by alleging that he has purchased the aforesaid vehicle through the General Power of Attorney of the owner of the vehicle Shri Ghan Shyam Aggarwal. He has also placed on record the General Power of Attorney executed by Shri Ghan Shyam Aggarwal, the

registered owner of the vehicle. It is the case of the petitioner that he has purchased the aforesaid car bonafidely through a dealer in Delhi and inadvertently the vehicle could not be transferred in his favour.

3. Counsel for the petitioner contends that application of the petitioner has been dismissed by the trial court only on the ground that the vehicle was not taken into possession by the police from the possession of the petitioner and he is not its registered owner. It has also been observed that the General Power of Attorney annexed by the petitioner appears to be doubtful, as a notice was sent to the registered owner on the address given in the General Power of Attorney, but he was not found there. Counsel for the petitioner contends that the General Power of Attorney given to the petitioner cannot be presumed to be doubtful until and unless it is otherwise proved. He further contends that no other person has come forward to claim the vehicle. Counsel for the petitioner submits that on the basis of the General Power of Attorney placed on record, the vehicle should be released to the petitioner and he is ready to furnish indemnity bond in the amount to be fixed by this court.

4. Counsel for the respondent-State only submits that the petitioner is not the registered owner, though he has admitted that no other person has claimed the aforesaid vehicle being its owner.

5. After hearing counsel for the parties and keeping in view the facts and circumstances of the case, particularly the fact that no other person is claiming the vehicle in question and the petitioner is claiming it on the basis of General Power of Attorney executed by the registered owner and he is also ready to furnish indemnity bond, I am of the opinion that genuineness of the General Power of Attorney cannot be doubted only on the ground that the registered owner who executed the same is not available on the given address. It may be possible that he may have changed his address. In this case, no body, except the petitioner, has put the claim on the impugned vehicle.

6. In view of the above, at present, on the basis of the alleged General Power of Attorney, executed by the registered owner, the petitioner is entitled to get the vehicle released, because it is no more required by the police, as accused in the case has already been acquitted. However, to secure the interest of a third person, who if comes subsequently and claims ownership of the vehicle, the vehicle be released to the petitioner subject to his furnishing indemnity bond in the sum of Rs. 1.50 lacs to the satisfaction of the trial court, with an undertaking to indemnify any better claimant, if any, who may come subsequently, claiming himself/herself to be owner of the vehicle.

7. Petition is allowed accordingly.