

State Vs. Bharat Bhushan

Present: Sh. Jagdish Sharma, Id. APP for the State.
Sh. Hitesh Parashar, Id. counsel for the applicant.

In pursuance of order dated 23.12.2021, investigating officer appeared and gave his verification. He submitted that marble machine was sold by the accused for ₹30,000/- while his charges for work done by complainant in house of the accused were ₹30,000/-. Accordingly, said amount total ₹60,000/- was deposited by the wife of accused before the police. It has been submitted that police has no objection in releasing the said money to the applicant.

2. Ld. counsel for the applicant submitted that police has recovered cash amount of ₹60,000/- and present applicant is owner of said amount. Thus, it has been prayed that said amount be released in favour of the applicant.

3. Ld. APP submits that although police has stated that there is no objection in releasing said amount, but in fact actual case property in this case i.e. marble rubbing machine, which belonged to complainant and was purportedly kept by accused has not been recovered. Money, if any got by sale of said machine is not property which can be belongs to the complainant for release thereof to him. Thus, he opposed the application.

4. Having heard the rival submissions of Id. counsels for both sides, evidently total ₹60,000/- have been recovered by police in this case. Out of said ₹60,000/-, ₹30,000/- is labour charges of work done by complainant in house of accused, which ought to have been paid by the accused to the complainant. Remaining ₹30,000/- seems to be money that accused got by selling of machines of the complainant. In my considered view, said money that accused got by selling machines of complainant cannot be given to the complainant. If at all his machine would have been recovered, complainant could have got said machines and he cannot claim any proceeds that accused would have got by allegedly selling said machine.

5. Similarly, qua remaining ₹30,000/- which actually is remuneration of complainant that he should have been paid for work done by him in the house of the accused, it cannot be attributed as case property to be delivered to the complainant. Police is not supposed to act as a recovery agent. Said money is dues of complainant and complainant can file a civil suit for recovery of his legal remuneration.

6. As such, this court is of the view that applicant is not entitled for possession of the money purportedly recovered in this case by police from the accused. If in future police is able to trace out actual machine of complainant, complainant is free to move appropriate application for release thereof. But money that accused got by sell of said property as well as remuneration that ought to have been paid by the accused to the complainant cannot be delivered to complainant in a criminal case. Hence, present application is dismissed. Papers be tagged with the main case file.

Announced:

(Sandeep Chauhan),
Chief Judicial Magistrate,
Faridabad. **(UID No. HR0271)**

Date of order : 24.12.2021.
Devendra Singh