

DLNW010120272022



Presented on : 06-12-2022
Registered on : 12-01-2023
Decided on : 17-01-2023
Duration : 0 years, 1 months,
11 days

**IN THE COURT OF
ASJ/SPECIAL.JUDGE(NDPS)
AT NORTH WEST, ROHINI COURTS, DELHI
(Presided Over by Sh. Vikram)**

Cr Rev/38/2023

Vandana

W/o Late Sh. Avinash
D/o Sh. Mohan Lal
R/o 601, C Block, Mangolpuri,
Delhi.

....Revisionist/petitioner

Vs.

The State of NCT of Delhi

....Respondent

Advocate for Petitioner : Hirender Kumar
Addl. PP for Respondent/State : Sh. Rakesh Kumar

JUDGMENT
(Delivered on 17.01.2023)

1. By way of present revision petition, petitioner impugns the order dated 11.10.2022, passed by ld. MM-03, North-West, Rohini Courts in case/challan no. MGP-0076/3798-2022 & MGP-0076-3799-2022, passed on application seeking release of vehicle bearing registration no. DL 11 SL 5650 on superdari, whereby ld. Trial Court dismissed the application.

2. The ground taken by petitioners to file the present revision petition is that ld. Trial Court has passed the impugned order without appreciating the facts and circumstances of the case.

3. Brief facts of the case are that on 22.05.2022 vehicle bearing registration no. DL 11 SL 5650 was challaned in the area of Traffic Circle Mangolpuri vide challan no. MGP-0076/3798-2022 dated 22.05.2022 (against driver) for the offence punishable under Section 185 (drunken driving), 3/181 (driving without licence) & 115/190(2) (without PUC certificate) Motor Vehicle Act and challan no. MGP-0076-3799-2022 dated 22.05.2022 (against owner) for the offence punishable under Section 5/180 (allowing unauthorized person to drive) & 115/190(2) (without PUC certificate) Motor Vehicle Act.

4. On 19.09.2022 an application was moved on behalf of

owner of the vehicle in question seeking release of vehicle in question on superdari which was dismissed by Id. Trial court vide impugned order stating that *a perusal of the application shows that the challan amount with respect to the vehicle in question has still not been paid by the applicant. Therefore, the court finds no reason to release the present vehicle on superdari as the applicant is at liberty to pay the challan amount and get the vehicle in question released.*

5. Petitioner herein is the registered owner of the vehicle in question. She has been denied her right to property as the challan is not paid. However, the Motor Vehicle Act nowhere empowers the Court to confiscate the property in violation of any offence specially with for the offences in which the challan was drawn. The impugned order was passed on the ground that the application was dismissed on the objection of IO the the challan amount is not paid but there is no report if the challan is disposed of after convicting the accused therein. Therefore, Id. MM should have allow the application in view of judgment of Hon'ble High Court of Delhi in Manjeet Singh Vs. State. The right to recover to fine from the case property will arise only after the accused is convicted and the case property or any other property of the convict is attached for realization of fine amount. Hence, Id. MM has committed an error in dismissing the application. Therefore, the order is liable to be set aside.

6. Observations made by Hon'ble High Court of Delhi in

Manjit Singh Vs. State CRL. M.C. 4485/2013 and CRL. M.A. No. 16055/2013 decided on 10.09.2014 as follows:

“Vehicles

- 1.Vehicles involved in an offence may be released to the rightful owner after preparing detailed panchnama; taking photographs of the vehicle; valuation report; and a security bond.*
- 2.The photographs of the vehicle should be attested and countersigned by the complainant, accused as well as by the person to whom the custody is handed over.*
- 3.The production of the vehicle should not be insisted upon during the trial. The panchnama and photographs alongwith the valuation report should suffice for the purpose of evidence.*
- 4.Return of vehicles and permission for sale thereof should be the general norm rather than the exception.”*

ORDER

7. In view of the discussion above held, impugned order is set aside. Vehicle in question be released to the applicant/registered owner/AR/LR of registered owner after due verification of his/her identity subject to the following conditions:

7.1 IO/challaning officer shall prepare detailed panchnama mentioning the colour, appearance, Engine No., Chassis No., registered owner and other necessary details of the vehicle;

7.2 IO/ challaning officer shall take the colour photographs of the vehicle from different angles and also of the engine number and the chassis number of the vehicle;

7.3 The photographs should be attested and counter signed by

the complainant, accused and the applicant;

7.4 IO/ challaning officer shall get the vehicle value from a proper valuer and shall take a valuation report in this regard from the valuer;

7.5 IO/ challaning officer shall take the security bond of appropriate value from the applicant, taking into consideration the valuation report;

8. IO/Challaning officer shall file the detailed panchnama report before Court concerned.

9. File be consigned to record room. TCR be sent back to concerned Court alongwith copy of this judgment. Copy dasti to petitioner.

Date : 17.01.2023

(Vikram)
ASJ-02/Spl. Judge (NDPS),
North West, Rohini Courts,
Delhi/17.01.2023

Dictated on : 17.01.2023
Transcribed on : 17.01.2023
checked on : 17.01.2023
Signed on : 17.01.2023

(Vikram)
ASJ-02/Spl. Judge (NDPS),
North West, Rohini Courts,
Delhi/17.01.2023