

(1987) 04 P&H CK 0025
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 1347 of 1986

Bahadur Singh

APPELLANT

Vs

Lakhwinder Singh

RESPONDENT

Date of Decision : 02-04-1987

Acts Referred:

Citation : (1987) 2 RCR(Criminal) 662

Hon'ble Judges : I.S.Tiwana, J

Advocate : M.S. Dhillon, S.C. Sibal, H.L. Sibal, Advocates for appearing Parties

Judgement

I.S. Tiwana, J.—Lakhwinder Singh, son of Gurdev Singh, was prosecuted for an offence u/s 411 Indian Penal Code, for having been found in possession of a stolen truck (Registration No. MHV 6088) on 30th January, 1983, in the area of police station Sirhind. As a result of the trial that followed he was convicted by the Judicial Magistrate Ist Class, Feteahgarh Sahib vide order dated 2nd May, 1986, and the said court directed the return of the truck, i. e. the stolen property to Bahadur Singh, petitioner who, as per the registration certificate of the said truck and the insurance policy cover, was recorded to be the owner of the same. Later, on appeal by Lakhwinder Singh, the learned Additional Sessions Judge, Patiala, while acquitting him vide his impugned order, has directed the return of the truck to him. It is this later part of the order of the Additional Sessions Judge which is now impugned in this petition by Bahadur Singh who as ready indicated was held to be the owner of the truck by the trial court. It deserves to be highlighted here that during the trial, in his statement u/s. 313, Code of Criminal Procedure, Lakhwinder Singh never claimed the ownership of the truck. According to his plea he was not even in actual physical possession of the truck at the time of its alleged recovery by the Police on 30th January, 1983. His plea, on the contrary, was that he had only been engaged as a driver by one Sohan Singh "to this truck and it was actually recovered from a workshop at Pattern where, it had been parked for purposes of repairs.

2. It is thus patent in the light of the above narration of facts that Lakhwinder

Singh accused neither claimed ownership of the truck nor it was recovered from his actual possession within the area of Police Station Sirhind as was the prosecution case. He even did not disclose anywhere in his statement u/s 313 Cr.P.C. as to who was the owner of the truck. In the face of this it is difficult to appreciate as to how the lower appellate court felt justified in returning the truck to him and that too in the face the evidence, i.e., the registration book Ex. P 1 and the insurance certificate as per which Bahadur Singh, petitioner, was recorded be the owner. It is also beyond dispute that it was Gurmit Singh, attorney of Bahadur Singh, who had lodged the F.I.R. (Ex. PG 4/A) on 30th January, 1983, at Police Station, Shahjahanbad (M.P.) about the theft of this truck by Pargat Singh who, as per the contents of the report had been employed as a driver for running this truck. As per the requirements of S. 452 Cr.P.C., which deals with the disposal of the case property, at the conclusion of the trial all that has to be considered by the court is the claim of a person, who is entitled to possession thereof. As has been pointed out earlier. Lakhwinder Singh at no stage put forth any such claim or entitlement to its possession. Rather he disclaimed it. On the contrary, it was only Bahadur Singh, petitioner, who had been clamouring for the possession of the case property on the basis of the documents of his title to which at reference has been made earlier. Besides all this, it is also on record that it was Bahadur Singh who had made a payment of about Rs. 1,25,000/ to the Allahabad Bank, Bhopal from where the truck was got financed by him.

3. For the reasons recorded above I allow this petition to the extent that the order of the lower appellate Court directing delivery of possession, of the track in question to Lakhwinder Singh is set aside. Instead it is directed that the same be returned to the petitioner i.e., Bahadur Singh along with the registration certificate (Ex. P 1) and other relevant documents on his furnishing surety to the satisfaction of the trial court. The trial court would ensure that the truck is returned to the petitioner at the earliest.