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**(2003) 10 RAJ CK 0040**

**In the Rajasthan High Court**

**Case No :** Criminal Miscellaneous Petition No. 38 of 2003

Rajendra Kumar

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

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**Date of Decision :** 30-10-2003

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 457

**Citation :** (2004) CriLJ 3470 : (2004) 4 RCR(Criminal) 724 : (2003) WLC 105

**Hon'ble Judges :** N.N. Mathur, J

**Bench :** Single Bench

**Advocate :** D.L. Rawla, for the Appellant; S.L. Jain and D.D. Kalla, Public Prosecutor, for the Respondent

**Final Decision :** Allowed

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## Judgement

N.N. Mathur, J.—The instant petition u/s 482, Cr. P.C. has been filed seeking direction to quash the order of the Additional Sessions Judge No. 1, Hanumangarh dated 12-12-2002 whereby he has set aside the order of the Chief Judicial Magistrate, Hanumangarh and the direction to deliver the jeep bearing No. HR-22/8010 on superdgi to respondent namely Kartik Finance Company.

2. The brief facts giving rise to the instant petition are that the jeep bearing No. HR-22/8010 was seized in connection with an F.I.R. Case No. 524/2002 Police Station Hanumangarh Junction. The said case has been registered against the driver of the jeep for offence under Sections 279 and 337, I.P.C. The petitioner being the registered owner of the vehicle claimed the delivery of vehicle. The respondent-finance company also submitted an application for the delivery of vehicle. The learned Chief Judicial Magistrate considering the petitioner, the registered owner of the vehicle, directed to deliver the vehicle to him on superdgi on furnishing a surety bond in the sum of Rs. 1,00,000/-. Accordingly, the jeep was delivered to him. However, the learned Additional Sessions Judge has reversed the order and directed the vehicle to be delivered to the finance company.

3. I have heard learned counsel for the parties. It is not in dispute that vehicle has been seized in connection with an accident case. The controversy in the instant case is not with respect to the payment of instalments to the finance company. The learned Chief Judicial Magistrate considered the fact that the petitioner is a registered owner of the vehicle directed for temporary custody of the vehicle to him. It is held by various decisions of this Court and the Apex Court that a registered owner of the vehicle is normally entitled to the custody of the vehicle. It is held by the Apex Court in *Manoj v. Shriram Tpt. Finance Co. Ltd.*, reported in 2002 Cri 377 that in case if instalment is due against the owner, it is always open for the finance company to approach to the Civil Court. I am of the view that the learned Additional Sessions Judge has committed error in reversing the order of the learned Chief Judicial Magistrate which was more in consonance with the settled position of law.

4. Consequently, the misc. petition is allowed. The judgment of the learned Additional Sessions Judge No. 1. Haumangarh dated 12-12-2002 is set aside. The order of the Chief Judicial Magistrate, Hanumangarh dated 27-11-2002 with respect to the delivery of jeep bearing No. HR-22/8010 is restored.