

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CRM-M-1117-2019
Date of Decision : 30.4.2019**

Ashwani Kumar

....Petitioner

vs.

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Namit Khurana, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

This petition has been filed against the order dated 19.11.2018 of the Revisional Court wherein it has set aside the order of the Judicial Magistrate 1st class ordered to release a sum of Rs.16, 42,000/- to the petitioner on superdari.

Brief facts of the case are that some money was seized from the petitioner's firm and out of that amount only a sum of Rs. 16,42,000/- was brought on record while the rest was misappropriated by the police officials and the case under the Prevention of Corruption Act was lodged against them. The petitioner filed an application before the Judicial Magistrate 1st Class praying that at least the amount of Rs.16, 42,000/- (which was shown in the record) be given to him on superdari. The Judicial Magistrate 1st Class allowed the application but the State challenged the same by way of revision. The Revisional Court allowed the revision and held that since the

case was under trial before the Special Court, the Magistrate had no power to release the amount on superdari and directed the petitioner to redeposit the said amount.

Counsel for the petitioner has very fairly stated that it is correct that the Magistrate do not have power to release the said amount on superdari but he claims that direction to redeposit the amount would cause extreme prejudice to the petitioner because the money rightly belongs to the petitioner and was not a part of the offence. Learned Assistant Advocate General has accepted that this amount of Rs. 16, 42,000/- rightly belongs to the petitioner and has to do nothing with the offence because as per the allegations the remaining money was misappropriated by the police.

In these circumstances, though it is held that the order of the Magistrate was rightly set aside by the Revisional Court yet direction given by the Revisional Court to redeposit the money is set aside.

Petition stands disposed of.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

**30.4.2019
anuradha**

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No