

GAHC010195792023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./397/2023

CHOLAMANDALAM INVESTMENT FINANCE COMPANY LTD.
THROUGH ITS AUTHORIZED PERSON, NAMELY, MR. BHAWWANI
SHANKAR, POSTED AS SENIOR EXECUTIVE, CHOLAMANDLAM
INVESTMENT AND FINANCE COMPANY LIMITED, HAVING ITS BRANCH
OFFICE AT NAVRATAN HATA PURNEA, ABOVE IDBIO BANK, P.S. K HAAT,
P.O. PURNEA, BIHAR, PIN-854301

VERSUS

THE STATE OF ASSAM
REP. BY THE ADDL. PP, ASSAM

Advocate for the Petitioner : MR G SAIKIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

07.11.2023

Heard Mr. G. Saikia, learned counsel for the petitioner and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. Pursuant to the order of this Court dated 18.09.2023; 29.09.2023; 11.10.2023; and 18.10.2023, the learned Addl. P.P. has produced one report,

received from the concerned IO. I have carefully perused the same, which indicates that, one Sailendra Singh had purchased the machine i.e. TATA Hitachi by availing loan from Cholamandalam. But, no legal documents has been produced before the IO in respect of the said machine by any person and no MVI report also could be collected as the said machine is not a vehicle in fact.

3. Be it noted here that in this revision petition, under Section 397 read with Section 401 of the Cr.P.C., the petitioner has put to challenge the correctness or otherwise of the order dated 30.05.2023, passed by the learned SDJM [M], Bokakhat in petition No. 438/2023, in connection with Bokakhat PS Case No. 18/2023.

4. It is to be noted here that vide order dated 30.05.2023, the learned court below has dismissed the petition filed by the petitioner seeking custody of the said TATA Hitachi machine, bearing No. NON8764823. Further it is to be noted here that the aforesaid machine was seized by police in connection with Bokakhat PS Case No. 18/2023, under Sections 420/406 of the IPC and the said case was registered on the basis of one FIR lodged by one Mrs. Rijumoni Gogoi, the Chairperson of Associate Construction Company, a unit of GSR Corporate Group.

5. Mr. Saikia, learned counsel for the petitioner submits that the petitioner is the financier of the aforesaid TATA Hitachi machine, which was purchased by one Sailendra Singh, after taking loan of Rs. 34,94,794/- and the purchaser has to pay an outstanding due amounting of Rs. 26,53,223/-. But, he had failed to make payment of the aforesaid amount and as the machine was seized by police in connection with a case lodged by the informant and the machine is lying in the campus of Bokakhat PS, a prayer was made before the learned SDJM [M], Bokakhat, seeking custody of the same, but the learned

court below has dismissed the same, vide impugned order dated 30.05.2023, and as the financier of the aforesaid machine the petitioner company is entitled to get the custody of the machine and therefore, it is contended to allow the petition.

6. On the other hand, Mr. Sarma, learned Addl. P.P. submits that ownership of the vehicle had not yet been established and the police has to verify the same.

7. But, it appears from the report submitted by the police that they could not verify the ownership of the vehicle and as nobody appears along with the legal documents of the said machine before the IO.

8. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 30.05.2023, passed by the learned SDJM [M], Bokakhat.

9. It is not in dispute that the petitioner is the financier of the seized machine. Since, the purchaser has failed to make payment of the loan amount obtained from the petitioner company, the petitioner company is entitled to reposes the aforesaid machine. And in view of the judgment of **Myma Fincop Limited vs. Rajnish Kumar** Tiwari, reported in **[2020] 10 SCC 399** and in that view of the matter, this Court is inclined to allow this petition.

10. It is provided that on furnishing an indemnity bond of Rs. 27,00,000/-, to the satisfaction of the learned SDJM [M] Bokakhat, the seized Hitachi Machine shall be released in the interim custody of the petitioner, subject to the condition that the petitioner has to produce the same before the learned court below as on when directed.

11. In terms of above, this Criminal Revision Petition stands disposed of.

Comparing Assistant

JUDGE