

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1390 OF 2014

India Infoline Finance LTD.
A registered Company,
Having its Registered Office at
IIFL House, Sun Infotech Park,
Road NO.16 V, Plot No.B-23,
MIDC, Thane, Industrial Area,
Wagle Estate, Thane-400604
AND
having its branch office at
Oberoi Towers, 3rd Floor,
Opp. Govt.Milk Dairy, Jalna Road,
Aurangabad-431001
Through its Authorized Signatory
Shri. Chandrakant Balla s/o Shankar Balla,
Age: 25 years, Occ: Service,
R/o. IIFL Ltd., 5th Floor, Lohia Jain IT Park,
Chandni Chowk, Pune-38. ...Petitioner

versus

The State of Maharashtra,
Through Police Station MIDC Chikhalthana,
Aurangabad, Dist. Aurangabad & anr. ...Respondents

.....
Mr. U.N. Shete, Advocate for petitioner
Mrs. M.A. Deshpande, A.P.P. for respondent No.1
.....

CORAM : N.W. SAMBRE, J.

DATE : 1st SEPTEMBER, 2015

ORAL ORDER :

The petitioner, a financial institution, has sought custody of the property based on hire purchase agreement and as such, moved the application under Section 451 of the Code of Criminal Procedure, which came to be rejected by learned Additional Sessions

Judge-4, Aurangabad on 03/09/2014. As such, present petition.

2. Perused the observations. The order reflects complete non-application of mind, and deviation from the settled principles of law dealing with the issue raised, particularly in the light of law laid down by the Apex Court in the matter of **Anup Sarmah vs. Bhola Nath Sharma and others** reported in **2012(0) BCI 346** and the judgment of the Apex Court in the matter of **General Insurance Council and others vs. State of A.P. and others** reported in **2010 AIR SCW 2967** and other judgment of the Apex Court and this Court.

3. In view thereof, the order impugned passed by learned Additional Sessions Judge-4, Aurangabad on 03/09/2014 below Exhibit-4 in Sessions Case No.116 of 2014 is set aside. The application at Exhibit-4 stood restored to the file of concerned Sessions Judge, Aurangabad, who is directed to decide the same in the light of above referred observations, after giving fresh opportunity of hearing to respective parties. Criminal Writ Petition is allowed in above terms.

[N.W. SAMBRE, J.]