

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.1162 of 2016

- Tata Motors Finance Limited Through Brajkishore Sharma , S/o S.N.Sharma
Aged About 37 Years, Legal Head Vidarbh & Chhattisgarh T.A.T.A Motors
Finance Limited, Maruti Heights, Raipur, District Raipur, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through District Magistrate, Durg Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Rajeev Bharat, Advocate
For Respondent/State	:	Shri B. Gopa Kumar, Dy.AG

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

07/11/2016

Heard.

2. This revision petition arises out of an order dated 31-03-2016, by which, revision of the petitioner has been dismissed arising out of rejection of application for grant of interim custody of the vehicle alleged to have been involved in the commission of offence under the provisions of Section 4, 10 & 11 of Chhattisgarh Agriculture Cattle Preservation Act, 2004 and Section 11 of Prevention of Cruelty to Animals Act, 1960.

3. Learned counsel for petitioner submits that the vehicle concerned which has been seized by the police and alleged to have been found carrying agriculture cattle for slaughter, was financed by the petitioner-company and the purchaser-owner having defaulted in making payment of installment, an award of possession and sale has also been made in favour of the petitioner-Finance Company. It has also been stated in the application for grant of possession/interim custody that the vehicle, which has been seized, is likely to

be rotten but the same has been rejected.

4. On the other hand, learned State counsel submits that the petitioner is not the registered owner of the vehicle itself, but it is the Finance Company, therefore, at this stage, the Court below has rightly rejected the application.

5. In the present case, the vehicle happens to be the truck, which is alleged to have been involved in carrying agriculture cattle for slaughter. No one including the registered owner has claimed interim custody of the vehicle. The petitioner claims to have obtained award in his favour on 15-11-2014 for re-possession and sale of the vehicle towards realization of the loan made available to the registered owner.

6. The conclusion of criminal case is likely to take some time. The vehicle, if rotten, would be of no use to any one. As no one except the petitioner has applied for taking possession of the vehicle on interim custody and the petitioner does not appear to be a third party but having vital interest being the Financier of the vehicle and the vehicle having been sold under the scheme of loan-cum-hypothecation and also that the petitioner claims to have obtained an award of re-possession for sale towards realization of loan made available by it to the borrower, in the interest of justice, the vehicle be released by the Court below in favour of the petitioner.

7. It is ordered that the vehicle shall be released by the Court below in favour of the petitioner by way of interim custody on petitioner's furnishing security of Rs.2 Lakh with a condition that the petitioner shall keep the vehicle in a safe condition without any alteration or material change and shall produce the vehicle before the Magistrate or the concerned Court as and when directed.

8. In the result, the petition is allowed.

SD/-
(Manindra Mohan Shrivastava)
Judge

Tumane