

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 665 of 2016**

Au Financier (India) Pvt. Ltd. through its authorized signatory – Om Prakash Vaishnav S/o Shri Bhikham Das Vaishnav, aged 34 years, posted as Legal Officer, Registered Office-19 A, Dhuleshwar Garden, Ajmer Road, Jaipur – 302001, Rajasthan

---- Petitioner**Versus**

State of Chhattisgarh through the Station House Officer, Police Station Saja, District Bemetara (CG)

---- Respondent

For Petitioner	:	Shri J. K. Gupta , Advocate
For Respondent/State	:	Shri Anupam Dubey, Dy. G.A..

Hon'ble Shri Justice P. Sam Koshy**Order On Board****01/07/2016**

The present petition has been filed assailing the order dated 18.09.2013 passed by the Additional Sessions Judge, Bemetara in Criminal Revision No. 65/2012 affirming the order dated 07.11.2012 passed by the JMFC, Saja in an unregistered criminal case whereby the application moved by the petitioner for releasing of a vehicle on Supurdnama was rejected.

2. The facts in brief are that a mini truck was seized by the Police Authorities of PS Saja, District Bemetara in connection with Crime No.110 of 2012 for the offence under Section 4 of Pashu Krurta Nivaran Adhiniyam, 1960, Section 4 & 6 of Chhattisgarh Krishik Pashu Parirakshan Adhiniyam, 2004, Section 46, 47, 49A, 50, 54 (123) and 55 (A) of the Animal Transportation Act, 1978 and Section 66/192 of Motor Vehicles Act, 1988. A case was registered against the owner of the said vehicle namely Sadique Jabrarsaher Afjal and other accused persons in

the said vehicle and the matter was put to trial before the JMFC, Saja, District Bemetara. Pending the trial before the Court below, the present petitioner who is said to be the financier to the owner of the vehicle sought for releasing of the said vehicle as there is a default on the part of the owner of the vehicle in paying the installments due to the petitioner. Therefore, the petitioner moved an application for releasing the said vehicle so that the same can be auctioned. The application of the petitioner was rejected by the JMFC on 7.11.2012 holding that the petitioner was not the actual owner of the seized vehicle and the actual owner was still absconding and there was no consent letter given by the owner of the vehicle in favour of the petitioner for releasing the same.

3. Against the said order dated 07.11.2012 the petitioner preferred a revision petition before the Additional Sessions Judge, Bemetara which was registered as Criminal Revision No.65 of 2012. The Revisional Court also vide impugned order dated 18.09.2013 rejected the said application on the ground that the Au financier was not the actual owner of the vehicle and that the actual owner had not moved any application nor had authorized the Au Financier for moving the application on his behalf.

4. Though the order of the Revisional Court was passed on 18.09.2013, for almost two years the petitioner did not think it fit to challenge the said order and now they intend to challenge the same after a gap of about two years.

5. At present also, the situation is not changed and the status of the petitioner remains to be that of a financier and that they are not the actual owner of the said vehicle. The contention of the petitioner has also not changed that there is a default on the part of the owner of the vehicle in payment of the installments due to him and therefore he has moved this petition for releasing the vehicle on Supurdnama so that the Company can recover its dues by auctioning the said vehicle.

6. Considering the total facts and circumstances of the case, this Court is of the opinion that this petition deserves to be rejected firstly on the ground of delay in challenging the impugned order and secondly, on the merit of the case, the petitioner has not been able to establish any error to have been committed by the two Courts below while rejecting the application for releasing the vehicle on Supurdnama giving the reason of the petitioner not being the owner of the vehicle. In case, if there is a default on the part of the actual owner in repayment of the financed amount, the petitioner company can always go for recovery proceeding against the defaulter, but that will not entitle them for obtaining the vehicle under Supurdnama.

7. Thus, on the ground of delay and lack of merit, the instant Cr.M.P deserves to be and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**