

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 150 of 2016

- Choramandalam Investment And Finance Company Limited Rama Trade Centre, Near Old Bus Stand, P.S. City Kotwali, Bilaspur, Tahsil & District Bilaspur, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Police Station Sirgitti, District Bilaspur, Chhattisgarh.
2. Minhaj Ahmad S/o Sohail Ahmad R/o Ward No. 4, Yadunandan Nagar, Tifra, P.S. Sirgitti, Bilaspur, District Bilaspur, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Mr. Mukesh Sharma, Advocate
For State	:	Mr. Vinod Tekam, Panel Lawyer
For Respondent No.2	:	Mr. Arvind Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/11/2016

1. The present Petition has been preferred assailing the two orders dated 30.11.2015 passed by IVth Additional Sessions Judge, Bilaspur in Criminal Revision No. 122/2015 as also the order dated 06.04.2015 passed by the Judicial Magistrate, First Class Bilaspur in Criminal Case No. 12450/2015.
2. The facts in brief is that the Respondent No.2 in the present case was accused in the Crime No. 208/2014 registered at Police Station, Sirgitti, Bilaspur for the offence under Section 452, 299, 323, 506/34 of the IPC. Meanwhile, a complaint was lodged by the Petitioner establishment in respect of the Act on part

Respondent No. 2 of forcefully taking over the vehicle from its parking yard, at Police Station, Sirgitti which was registered as crime No. 208/2014. It is also the case where the truck bearing Registration No. CG 10 C 0454 which was purchased by Respondent No.2 and the present Petitioner was financier. On account of the fact that there was default on repayment of the installment by Respondent No.2 to the Petitioner establishment is said to have taken repossession of the vehicle and parked at their premises. Subsequently, Respondent No.2 is alleged to have forcefully taken the said vehicle which was parked in the premises of the Petitioner establishment. Later the Petitioner moved an application for releasing the vehicle on Supurdnama under Section 457 Cr.P.C. before the J.M.F.C. Bilaspur which was registered as case No. 12450/2015. However, the Court below vide its order dated 06.04.2015 rejected the application on the ground that the record which was produced before the Court below reflected a memo dated 13.08.2014 to have been passed by one Shri Krishnakant Bharadwaj, JMFC Bilaspur ordering for the handing over the vehicle and its key to Respondent No.2.

3. This rejection order dated 06.04.2015 was put to challenge before the Revisional Court and the Revisional Court also taking note of the same reiterating the stand of the JMFC rejected the Revision Petition holding that the once when an order has been passed under Section 457 Cr.P.C. granting Supurdnama to the Respondent No.2, the subsequent application would not be maintainable as it amounts to reviewing of the earlier order. These two orders led to the filing of the present Petition.

4. Learned Counsel for the Petitioner during the course of the hearing submits that though the Court below had relied upon the release memo dated 13.08.2014 passed by the Judicial Magistrate, Bilaspur but the document is suspicious to the extent that none of the document in any of the case diary or in the record of the Court below reflect the case number in which the order of the Supurdnama in favour of Respondent No.2 was passed neither is it in the record of the Court below. The only document which is being referred time and again and which is also in the case diary is the memo dated 13.08.2014 which shows nothing but order of release having the seal and signature of JMFC Bilaspur i.e. of Krishnakant Bharadwaj.
5. The Counsel for the Respondent No.2 inspite of sufficient time being granted was not able to produce the order by which he had got the vehicle on Supurdnama. Neither has he been able to give any details in respect of such a proceeding except for referring to the memo in the case diary dated 13.08.2014. This act of the Respondent No.2 is creating doubts in the mind of this Court.
6. Since a serious doubt has been created in the mind of the Court whether there was any proceeding at all drawn for granting Supurdnama in favour of Respondent No.2 or not because only the memo dated 13.08.2014 is on record. Therefore, the matter is remitted back to the Revisional Court to conduct detail inquiry so as to ascertain the details of the Supurdnama proceeding if at all it has been drawn at the instance of the Respondent No.2, where

he has got the order of Supurdnama in his favour and on the basis of which the release memo dated 13.08.2014 was issued.

7. It is made clear in the event if the Revisional Court finds the original record / proof in respect of the earlier Supurdnama proceeding if any drawn at the instance of Respondent No. 2, then nothing further remains to be adjudicated upon in the present case. However, in case if the Court below is not into position to get original court record/proof of the Supurdnama proceeding initiated by the Respondent No.2 then the order dated 30.11.2015 (Annexure P/1) passed by the 4th Additional Sessions Judge and the order dated 06.04.2015 (Annexure P/2) passed by the J.M.F.C., Bilaspur shall stand quashed and the matter be remitted back to the J.M.F.C. Bilaspur for fresh proceeding all together after giving opportunity of hearing to either parties and who in turn would pass a fresh order so far as the custody of the vehicle, which is presently in the possession of Respondent No.2. Since the parties are represented before the Court, let both the parties appear before the Revisional Court on 5th December, 2016. A report on the findings of the 4th Additional Sessions Judge shall also be made available to this Court.

8. With the aforesaid observation the Cr.M.P. stands disposed off.

Sd/-

(P. Sam Koshy)
Judge