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

CRIMINAL APPLICATION NO. 1275 OF 2016

Chandanlal s/o Surajlal Jaiswal,
Age: 53 years, Occu: Driver,
R/o. Shivaji Nagar, Hingoli,
Tq. & Dist. Hingoli

..APPLICANT

VERSUS

1. The State of Maharashtra,
Through Investigation Officer,
Police Station, Hatta,
Tq. Aundha, Dist. Hingoli

2. The Police Sub Inspector,
Police Station, City Pusad,
Tq. Pusad, Dist. Yavatmarl

..RESPONDENTS

Mr R. J. Nirmal, Advocate for applicant;
Ms R. P. Gaur, Addl. Public Prosecutor for respondents

CORAM : N.W. SAMBRE, J.

DATE : 28th April, 2016

ORAL ORDER :

The order dated 29th August, 2015, passed by the learned Judicial Magistrate First Class, Aundha Nagnath, in application under Section 457 of the Code of Criminal Procedure, in favour of the applicant as a owner of the vehicle bearing No. MH-29-M-1381, is sought to be relied upon, so as to make out a case of non-compliance by the Investigating Officer.

2. My attention is also invited to subsequent order passed by the learned Magistrate on 6th January 2016. Pursuant to the communication

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received by the Investigating Officer, Hatta from the City Police Station, Pusad, in Crime No. 417 of 2015, pursuant to which learned Magistrate, Aundha, by an order dated 6th January, 2016, has ordered further custody of the said vehicle, which is involved in the Crime referred supra, to the Police Station, Pusad. It is claimed by the petitioner that the custody of the vehicle, in spite of the order of the Court, was not handed over by the Investigating Officer, Hatta Police Station, in Crime No. 16 of 15, punishable under Sections 461 and 380 of the Indian Penal Code.

3. Pursuant to the order dated 26th April, 2016, passed by this Court, the Investigating Officers of both the police stations are personally present and assisted the learned Additional Public Officer in the present matter.

4. It is brought to the notice of this Court that, there are number of offences registered against accused-applicant and though there was an order passed by the learned Magistrate, directing Investigating Officer from Hatta police station to release the vehicle, petitioner has not complied with the conditions incorporated by the learned Magistrate in order dated 29th August, 2015. The record depicts that there is no material produced on record to satisfy compliance of the order of the learned Magistrate.

5. In view of above, no fault could be noticed with the Investigating Officer from the Hatta Police Station in Crime No. 16 of 2015.

6. The fact remains that the Investigating Officer from the City Police

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Station, Pusad, in Crime No. 53 of 2015, is to take further custody of the vehicle involved in the crime in question. It is required to be noted that in all 3 crimes, chargesheet is already filed.

7. In this background, it will be appropriate, in my opinion, to dispose of the present petition with observations that, the petitioner will be at liberty to apply for custody of the vehicle which was given to the Investigating Officer from the City Police Station, Pusad.

With above observations, the application stands disposed of.

(N.W. SAMBRE, J.)

sjk