

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-34135 of 2012

Date of Decision: August 04, 2016

Manvir Singh

...Petitioner

Versus

Shri Ram Transport Finance Co. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Chander Shekhar, Advocate
for the petitioner.

Mr. G.S. Sandhu, Advocate
for the respondent.

FATEH DEEP SINGH, J.

The accused petitioner-Manvir Singh through this petition under Section 482 Cr.P.C. has sought to invoke the jurisdiction of this Court seeking quashment of criminal complaint (Annexure P/2) as well as summoning order dated 3.6.2009 (Annexure P/3) along with all subsequent proceedings arising out of it.

After hearing learned counsel for the parties and perusing the records of the case, the undisputed facts that emerges from these submissions as well as records are that the petitioner purchased a vehicle TATA 2515-HD on hire-purchase basis under hypothecation from respondent-complainant. The total finance was to the tune of `13,85,307/- out of which `11 lacs was the loan amount and `2,85,307/- being the interest amount. The loan was being paid in 47 instalments @ `29,316/- per

instalment and `3,30,000/- was paid at the time of this loan agreement and during the course of events a sum of `5,25,000/- was paid by the petitioner but thereafter defaulted and that is how in terms of loan agreement vehicle was repossessed by the financier on 6.10.2007 through (Annexure P/1). It is as a consequence of the cheque earlier issued by the petitioner bearing cheque No.030978 dated 30.03.2009 for sum of `4,40,000/- drawn on Bank of Punjab Ltd duly presented for encashment by the complainant and which was returned back unpaid and after the necessary formalities the complaint was filed leading to the summoning order and which the petitioner has come to challenge. By now it is well enunciated principle of law that a summoning order is an “inter-mediatory or quasi final order in nature and, thus, revision lies against such an order for which the reliance is placed on the law laid down in **Urmila Devi vs. Yudhvir Singh 2013(4) RCR (Cri) 899** where the Hon'ble Apex Court considering the ratios laid down in **Adalat Prasad vs. Rooplal Jindal 2004(4) RCR (Criminal) 1;** **Subramaniam Sethuraman vs. State of Maharashtra 2004(4) RCR (Criminal) 349** as well as in **K.K. Patel vs. State of Gujarat 2000(2) RCR Criminal 863;** **Madhu Limaye vs. State of Maharashtra (1977) 4 SCC 551BUI;** **Rajendra Kumar Sitaram Pande vs. Uttam 1999(1) RCR (Criminal) 800** as well as decision of that Court in **Dharimal Tobacco Products Ltd. vs. State of Maharashtra 2009(1) RCR (Criminal) 677** have reached at the conclusion that an order directing issuance of process is an inter-mediatory and quasi final order and, therefore, subject to revisional jurisdiction under Section 397 Cr.P.C. Though, on behalf of learned counsel for the petitioner reliance has sought to be placed on **Prabhu**

Chawla Vs. State of Rajasthan and another SLP (Crl.) No.3314 of 2009
date of order 05.07.2013 however, with due apologies to the cited ratio in view of the latest view of the Hon'ble Apex Court in **Urmila Devi case ibid** the same does not holds good. The next point that has arisen is when there is statutory provision by way of revision in terms of Section 397 Cr.P.C. can this Court exercise its powers at the mere asking of the party under Section 482 Cr.P.C. Admittedly, learned counsel for the two sides do not differ over the position of law that the inherent powers under Section 482 Cr.P.C. are to be sparingly used in rarest of rare case as has been laid down in **State of Haryana and others vs. Ch. Bhajan Lal and others AIR 1992 S.C. 604** . It is not a provision which can be put to use at the mere asking unless and until parties are able to convince the Court about the exceptional circumstances exists for the Court to invoke its inherent powers. This Court seeks support from **Mohit @ Sonu and another vs. State of U.P. and others 2013(3) RCR (Cri) 673** wherein, considering all these aspects the Hon'ble Apex Court has held that powers under Sections 482 Cr.P.C. are discretionary powers which are to be exercised in the aid of justice and, therefore, their exercise depends upon the facts and circumstances which are in accordance with the well recognised rule of criminal jurisprudence to ensure and to meet the ends of justice that the criminal Courts do not exceed their jurisdiction and abuse the process vests in them by the Code of Criminal procedure. Since a special remedy has been provided by way of revision as has been detailed above, therefore, in the present case to the mind of this court powers under Section 482 Cr.P.C. are not desired to be exercised and resorted to.

In the light of the same, the present petition being

hopelessly without any merits stands dismissed.

(FATEH DEEP SINGH)
JUDGE

August 04, 2016
aarti

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No