

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No.2368 of 2016
DATE OF DECISION: October 26,2016

M/s Manappuram Finance Limited ...Petitioner

versus

State of Haryana ...Respondent

CORAM:- HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Harish Sharma, Advocate, for the petitioner.
Ms.Mahima Yashpal, AAG, Haryana.

RITU BAHRI, J.

The petitioner is a company that has filed a revision petition against the order dated 27.4.2016 and the amended order dated 7.5.2016 passed by the Judicial Magistrate Ist Class, Faridabad whereby the prayer for waiving off the conditions of not to change the shape/colour, transferring/alienating the gold articles and furnishing one surety of Rs.5 crore has been rejected.

Learned counsel for the petitioner submits that permission for release of the recovered gold articles and money has been given by the trial Court with the condition that the shape/colour of the recovered gold articles will not be changed and the petitioner would furnish superdarinama of Rs.5 crores with one surety in the like amount which is totally incorrect. The grievance against this condition is that he will not alienate the case property which has been given to the Company on the ground that since the gold articles

are pledged by the customers with the Company as security for the loan availed which they are to return back to the claimants upon their full and final repayments of the pledged amount, the condition so imposed is illegal. Reference has been made to the judgment rendered by the Madras High Court in Lenovo India (P) Ltd and others v. State 2013 Law Suit (Mad) 2343 wherein in a similar condition, a direction was given that after taking photographs of the property it can be used as secondary evidence during the course of trial and at the time of passing the final order, since at the time of passing final order it is only the value of the property that is the prime concern of the Court. These orders have been passed observing that if the owner of the property is not entitled to the property, or its value. In the judgment rendered in K.W.Ganapathy v. State of Karnataka 2002 CrLJ 3867 (para 6), wherein it has been held that the rightful owners would lose the property when a crime has been committed by some third person and they cannot be denied beneficial possession and enjoyment of the same on account of such conditions imposed at the time of release of property.

Learned State counsel does not dispute the conditions imposed in the similar circumstances in the aforesaid judgment.

After hearing learned counsel for the parties, this petition is allowed. The orders impugned herein are modified to the extent that the gold articles weighing 15 kg and 242.8 gms and cash amount of Rs.4,02,500/-, which are being released to the petitioner can be photographed in the presence of the Investigating Officer and these photographs can be used as a secondary evidence during the trial. The condition that the shape/colour of the gold articles will not be changed is deleted. A further direction is issued to the concerned Court to pass appropriate orders with regard to bank guarantee instead of surety within a period of two weeks from the date a certified copy of this order is received.

October 26,2016
KD

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No