

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 469 of 2017**

Tata Motors Finance Limited, Branch Raipur, Through
 Brajkishore Sharma, S/o S.N. Sharma, Aged about 38
 years, Legal Head Vidarbha & Chhattisgarh TATA Motors
 Finance Limited, Maruti Heights, Raipur, District Raipur
 (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Police Station Hirri, District
 Bilaspur (C.G.)
2. Ajay Thakur, S/o Late Brijesh Singh Thakur, Aged about 26
 years, R/o Rui, Thana Rui, Ujjain (M.P.), Present R/o
 Behind Yasodhra Nagar, Police Station Maharashtra
3. Sanjay alias Sanju, S/o Sushil Daniel, Aged about 45
 years, R/o Mook Mathari, Police Station Jarhagaon,
 District Mungeli (C.G.)

---- Respondents

For Petitioner : Mr. Rajeev Bharat, Advocate
 For Respondent No.1/State : Mr. Arun Sao, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****12/04/2017**

(1) The Vehicle No. MH31 DS 5148 was found involved in
 commission of offence under Sections 4, 6 & 10 of the C.G.
 Agriculture Cattle Preservation Act, 2004 and under Section 11(2)
 of the Prevention of Cruelty to Animals Act, 1960.

(2) The petitioner- Tata Motors Finance Limited is financier of
 the said vehicle. The petitioner made an application for granting
 custody of the vehicle and for permitting the petitioner-Company

for selling the aforesaid vehicle. The trial Court by order dated 05.07.2014 interim custody of the vehicle has been granted to the petitioner-Company but declined to grant permission to sell the aforesaid vehicle on the ground that such a vehicle is also liable to be confiscated under Section 6 of the C.G. Agriculture Cattle Preservation Act, 2004 and, therefore, it cannot be permitted to be sold.

(3) In the matter of ***General Insurance Council and others Vs. State of Andhra Pradesh and others***¹, their Lordships of the Supreme Court has issued directions to ensure implementation of statutory provisions, and senior police officials directed to be in charge of disposal of seized vehicles so that national waste caused by their neglect in police station be reduced/eliminated.

Paragraphs 13, 14 & 15 of the report state as under:-

“13. In our considered opinion, the aforesaid information is required to be utilized and followed scrupulously and has to be given positively as and when asked for by the Insurer. We also feel, it is necessary that in addition to the directions issued by this Court in *Sunderbhai Ambalal Desai* (supra) considering the mandate of [Section 451](#) read with Section 457 of the Code, the following further directions with regard to seized vehicles are required to be given.

"(A) Insurer may be permitted to move a separate application for release of the recovered vehicle as soon as it is informed of such recovery before the Jurisdictional Court. Ordinarily, release shall be made within a period of 30 days from the date of the application. The necessary photographs may be taken duly authenticated and certified, and a detailed panchnama may be prepared before such release.

(B) The photographs so taken may be used as secondary evidence during trial. Hence, physical production of the vehicle may be dispensed with.

(C) Insurer would submit an undertaking/guarantee to remit the proceeds from the sale/auction of the vehicle conducted by the Insurance Company in the event that the Magistrate finally adjudicates that the rightful ownership of the vehicle does not vest with the insurer. The undertaking/guarantee would be furnished at the time of release of the vehicle, pursuant to the application for release of the recovered vehicle. Insistence on personal bonds may be dispensed with looking to the corporate structure of the insurer."

14. It is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police stations but upon being kept in open, are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than fifteen days. Apart from the above, it is also a matter of common knowledge that several valuable and costly parts of the said vehicles are either stolen or are cannibalised so that the vehicles become unworthy of being driven on road. To avoid all this, apart from the aforesaid directions issued hereinabove, we direct that all the State Governments/ Union Territories/Director Generals of Police shall ensure macro implementation of the statutory provisions and further direct that the activities of each and every police stations, especially with regard to disposal of the seized vehicles be taken care of by the Inspector General of Police of the concerned Division/Commissioner of Police of the concerned cities/Superintendent of Police of the concerned district.

15. In case any non-compliance is reported either by the Petitioners or by any of the aggrieved party, then needless to say, we would be constrained to take a serious view of the matter against an erring officer who would be dealt with iron hands. With the aforesaid directions, this writ petition stands finally disposed of."

(4) In the instant case, the vehicle in question has already been given on interim custody to the petitioner-Company on its own request subject to certain conditions and, therefore, the judgment

of the Supreme Court in case of ***General Insurance Council and others***² would not be applicable in the present case and, as such, the learned trial Court is absolutely justified in rejecting the application filed by the petitioner seeking permission to sell the financed vehicle.

(5) For the reasons mentioned hereinabove, the Cr.M.P. being devoid of merit is liable to be and is hereby dismissed. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

(Sanjay K. Agrawal)
Judge

D/-