

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

CRM No.M-10170 of 2014 (O&M)
Date of Decision: November 07, 2017

Mahindra and Mahindra Financial Services Ltd.

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Nitin Thatai, Advocate
for the petitioner.

Ms.Simranjit Kaur, Asstt. Advocate General, Punjab
for the respondent-State.

None for respondent No.3.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents for quashing the impugned order dated 31.07.2013 passed by learned Judicial Magistrate Ist Class, Rajpura, whereby condition was stipulated by the Court that the petitioner company would not sell the vehicle bearing registration No.CH-01AT-2579 without the prior permission of the Court and would not change its condition, colour and description and also order dated 20.11.2013 whereby application filed by the petitioner company to sell the vehicle was dismissed.

Notice of motion was issued. Learned State counsel appeared

and contested the petition. Earlier, learned counsel for respondent No.3 was appearing but on the last date of hearing and today also, none appeared on behalf respondent No.3.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Admittedly, the vehicle in question, as per Registration Certificate, is owned by respondent No.3-Bipul Roy. The vehicle has been got financed through the present petitioner, therefore, vehicle has been given on sapurdari to the petitioner. Now, present petitioner wants to sell the vehicle in question to recover the loan amount. Learned trial Court, has dismissed the application as vehicle in question is a case property.

I have gone through the impugned order and find that the same is correct and as per law. In no way, it can be held that any illegality has been committed. Firstly, the vehicle is a case property and is required during the trial. Secondly, if the vehicle is sold, then who will give the undertaking to produce it in the Court on each and every date and if the vehicle is to be confiscated or any other order is to be passed, then how it can be passed. Thirdly, vehicle is owned by respondent No.3, though financed/hypothecated with the petitioner company. The sapurdar-petitioner is not entitled to sell the vehicle. It is a criminal case and there is no determination of the amount due etc., between the petitioner and respondent No.3 and criminal Court, under these proceedings, cannot determine the amount to be recovered from respondent No.3.

Learned counsel for the petitioner contended that the vehicle may be allowed to be purchased by the present petitioner. Again, the seller and the purchaser would be same party and no useful purpose will be served

by selling the vehicle. The vehicle is already with the present petitioner and it can use or ply the vehicle for carrying its staff, as argued. For this purpose, there is no necessity to sell or purchase the vehicle by the petitioner itself. The vehicle in question is not a perishable item etc., so there is no necessity to sell the vehicle.

It is admitted at the time of arguments that no condition has been imposed by the Court below not to use the vehicle. Therefore, the petitioner can use the vehicle but the same will remain on sapurdari with the present petitioner.

Therefore, finding no merit in the present petition, the same is dismissed.

November 07, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No