

CWP No.22766 of 2015 (O&M)

[1]

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

**CWP No.22766 of 2015 (O&M)
Date of decision:06.12.2017**

Yadwinder Singh

...Petitioner

Versus

Union of India and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. S.S.Swaich, Advocate,
for the petitioner.

Mr. Deepak Suri, Advocate,
for respondent no.2.

Ms. Deepali Puri, Addl. A.G., Punjab.

Mr. J.S.Bedi, Sr. Advocate, with
Mr. Sonpreet S. Brar, Advocate,
for respondents no.8 to 10, 12 & 13.

Rakesh Kumar Jain, J.

The petitioner is in the transport business, under the name and style of M/s Chamkaur Bus Service and plying his three buses on Ludhiana Ropar route via Machhiwara. It is alleged that on 24.05.2014, at about 10.30 pm, when he was coming in his Bus No.PB-13E-9827 towards the Bus Stand, Ludhiana, after getting it repaired at Transport Nagar, Ludhiana and had just crossed the Dholewal Bridge, respondent no.13 gave a signal to stop the bus. At that time, respondent no.11 and 12 were also with him. As soon as they boarded the bus, they pulled the petitioner from the driving seat and started giving him beatings. They allegedly snatched ₹15,275/-, the permit and driving license of the petitioner lying in the bus. The petitioner came to know

that they were the employees of respondent no.8. It is further alleged that respondents no.8 to 13 kept the aforesaid bus with them and in the end, it was found in the custody of the police of Sherpur Police Post, Police Station Focal Point, Ludhiana. The petitioner made a complaint against respondents no.8 to 13 for forcibly snatching the bus from him but the police refused to take any action against them vide inquiry report dated 19.01.2015, which was accepted by the Deputy Commissioner, Ludhiana on 27.03.2015. It is further alleged that there was no loan transaction between the petitioner and respondents no.8 to 13 against the said bus, therefore, there was no question of any hypothecation or hire-purchase agreement between the parties. It is further alleged that there are many other criminal cases registered against respondents no.8 to 13 for the similar kind of criminal activities which are explained in para 10 of the writ petition.

In the aforesaid background, the petitioner has made two prayers, firstly to direct respondents no.1 to 5 to frame a policy/guidelines regulating the seizure of the hypothecated vehicles under hire-purchase agreement by non-banking financial institutions/private financiers through legal process only and to issue a direction to respondents no.3 to 10 to immediately release/hand over possession of his bus and for a direction to respondents no.3 to 7 to register a criminal complaint against respondents no.8 to 13.

In the reply filed by respondents no.3 and 5 to 7, it is averred that father of the petitioner had availed a loan of ₹3 lacs on the aforesaid bus but did not return the entire loan amount as ₹2,08,000/- is still outstanding and, therefore, in order to pressurize the private respondents, the petitioner has levelled the false allegations and insofar as the framing of policy is concerned,

it is submitted that no private financier is being allowed by the police to forcibly snatch the vehicle from the persons who are defaulter of the loan amount.

In the reply filed by respondent no.2, it is submitted that the Guidelines on Fair Practices Code for Non-Banking Financial Companies were brought into force much before the passing of the judgment by the Supreme Court in the case of **Manager, ICICI Bank Ltd. vs. Prakash Kaur and others**, 2007(2) RCR (Criminal) 76.

Ultimately, during the course of hearing, the following order was passed by this Court on 28.08.2017:-

“Learned State Counsel, on instructions from Jaswinder Singh, Head Constable, posted at the Police Post Sherpur, within the territory of Police Station, Focal Point, Ludhiana has submitted that Bus No.PB-13E-9827, allegedly belonging to the petitioner, is still parked in the Police Station, Focal Point, Ludhiana.

It is also submitted that the possession of the bus has been taken by the police because father of the petitioner had to pay ₹3 lacs to respondent No.8. However, it is not disclosed as to under which provision of law, the possession of the bus has been taken by the police and is being kept in the Police Post from the last three years. In order to elicit answer to this question, the Commissioner of Police, Ludhiana is directed to be present in Court.

Adjourned to 07.09.2017.

To be shown in the urgent list.

Copy of the order be given to counsel for the State under the signatures of the Special Secretary of this Court for compliance.”

In pursuance of the aforesaid order, the Commissioner of Police, Ludhiana filed his affidavit dated 06.09.2017, in which the following averments have been made:-

“3. It is further respectfully submitted that on receipt of the

copy of the directions passed by this Hon'ble Court, the answering deponent immediately called for a preliminary report from SHO PS Focal Point, Ludhiana and Assistant Commissioner of Police (South), Ludhiana. It has been reported that initially, during the course of the enquiry of the complaint submitted by the petitioner/complainant Yadwinder Singh, in order to avert any clash in between the parties as a precautionary measure, the temporary custody of Bus No.PB-13-E-9827 was taken by ASI Gurcharan Singh No.1880/LDH on 30.09.2014. The complaint submitted by petitioner/complainant Yadwinder Singh was subsequently disposed of. It has been further reported by SHO PS Focal Point, Ludhiana and Assistant Commissioner of Police (South), Ludhiana in their preliminary reports that ASI Gurcharan Singh No.1880/LDH and ASI Dharminder Singh, Incharge Police Post Sherpur, Ludhiana did not perform their duties with due diligence and caution pertaining to the disposal of the temporary custody of the aforementioned Bus, which was taken into possession as a precautionary measure. For showing sheer negligence, both ASI Gurcharan Singh and ASI Dharminder Singh, Incharge Police Post Sherpur, Ludhiana have now been placed under suspension by the answering deponent vide order dated 05.09.2017. Apart from this, a separate departmental enquiry has also been initiated against both these erring police officials, which has been entrusted to Additional Deputy Commissioner of Police (Hqrs. & Security), Ludhiana and he has been specifically directed to complete this departmental enquiry within a period of 6 weeks and on the basis of the findings delivered by Assistant Commissioner of Police (South), Ludhiana further appropriate legal action will be taken against both these officials.

4. It is further submitted that on the basis of the subsequent complaint submitted by complainant/petitioner Yadwinder Singh, a criminal case bearing FIR No.314 dated 05.09.2017 u/s 120-B/379-B IPC and section 25 of Arms Act, 1959 PS Focal Point, Ludhiana has also been registered and its investigation has been entrusted to SHO PS Focal Point, Ludhiana who has been directed to conduct the investigation of this case in a fair and transparent manner under the supervision of Assistant Commissioner of Police (South), Ludhiana.

5. It is further respectfully submitted that in the larger interest of justice, in order to dig out the truth and to bring true facts on the record, the answering deponent vide order dated 05.09.2017 has also constituted a Special Team comprising of SHO PS Focal Point, Ludhiana, Assistant Commissioner of Police (South), Ludhiana and Additional Deputy Commissioner of Police Zone-2, Ludhiana. This team has been specifically directed to verify all the facts from all the angles and to submit its report within four weeks. As and when, the report is submitted by this Special Team, further appropriate legal action will be taken in order to ensure justice to the parties.”

Thus, in view of the averments made by respondent no.2 in paragraph no.9 of its para-wise reply and the averments made by the Commissioner of Police, Ludhiana in his affidavit dated 06.09.2017 in paragraphs no.3, 4 and 5, the present petition has become infructuous and is dismissed as such.

December 06, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No