

\$~7

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 2951/2017

MAHABIR SINGH

..... Petitioner

Through Petitioner in person
versus

STATE (NCT OF DELHI) & ORS

..... Respondent

Through Mr. M S Oberoi, APP for State
Mr. Punil Bhalla, Adv for ICICI Bank

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **08.11.2017**

By this petition under Section 482 of the Code of Criminal Procedure, 1973 the petitioner has challenged the order dated 10th April, 2017 passed by learned Addl. Sessions Judge-04, South-East District, New Delhi whereby revision petition filed by the petitioner against the order dated 5th November, 2014 passed by Metropolitan Magistrate has been dismissed.

Respondent no.2 is the bank, respondent nos. 3 to 6 are its officials, respondent no.7 is Notary Public and respondent no.8 is Inspector Harpal Singh Yadav.

It is not in dispute that the petitioner had taken a loan from respondent no.2 for purchase of car. Respondent no.2 lifted the car as overdue installments were not paid. Being aggrieved of lifting of car, the petitioner filed a criminal complaint for taking action against the

respondents under sections 120B/368/371/406 etc IPC. It was alleged that some valuable articles were also lying in the vehicle at the time when it was lifted by respondent no.2 and the said articles were not returned to the petitioner when the car was returned to him by the respondent bank. In the impugned order, learned Addl. Sessions Judge has categorically held that a perusal of pre-summoning evidence available on record indicates that the role of respondent nos. 3 to 7 were not specifically explained by the petitioner and he had made only bald submissions on hear-say evidence and even otherwise, no admissible evidence was brought on record. There was no material available on record to show even, prima facie, that respondent no.6, who is a practising advocate and a notary public, had connived with other respondents in lifting the car. The respondent nos. 2 to 4 were only employees of the respondent no.1 and were not in a position to take any independent decision. Vide order dated 5.11.2014 respondent no.2 was summoned under Sections 409/427 IPC. As per the petitioner, respondent no.3 to 7 also should have been summoned.

During the course of hearing, it is contended that the vehicle was lifted without any notice. However, I find that notices are available on record. Petitioner submits that notices were issued at the wrong address, inasmuch as, 'section' was not written. Petitioner has stated in the complaint that he had been requesting the respondent no.2 to settle the account which indicates that notices were issued.

Be that as it may, both the courts below have appreciated the averments made in the complaint and the statement of witness

recorded at the pre-summoning stage and have held that no, prima facie, material was there to summon respondent nos.3 to 4.

This Court is not sitting in appeal or in revision against the orders passed by the courts below. It is trite law that inherent jurisdiction has to be exercised by this Court sparingly and in appropriate cases where it is demonstrated that there is an abuse of process of law resulting in miscarriage of justice.

I have heard the petitioner, learned counsel for the respondent and have perused the material placed on record and I do not find any perversity in the impugned order. Respondent no.3 is Area Manager. Respondent nos.4 to 6 were working in the Auto Collecting Centre and were dealing with the default in loan accounts. It appears that petitioner has impleaded all the officials on the presumption that they had lifted the car, without having any specific knowledge about the facts, inasmuch as, their individual roles in lifting of the car have not been specified. How respondent nos.7 and 8 could have played active role in lifting of the car has also not been explained in the compliant.

Petition is dismissed.

A.K. PATHAK, J

NOVEMBER 08, 2017

sm