

Dond

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.1742 OF 2017

Mr. Shankar Baburao Upase

..Petitioner

Vs

The State of Maharashtra & Ors.

..Respondents

Mr. Ritesh Thobde for Petitioner.

Mr A.R. Patil, APP for State.

Ms. P.V Badadare for respondent Nos.2 and 3.

CORAM : A.S.GADKARI, J.

DATE : 7th September 2018

P.C.:

1] By the present petition, the petitioner has impugned Order dated 7.2.2017 passed below Exhibit-1, in M.A. No.1777 of 2016 by the learned Judicial Magistrate First Class, Solapur under Section 457 of Cr. P.C for return of Scorpio Vehicle.

2] The record indicates that, by an Order dated 1.12.2016 the learned Judicial Magistrate First Class, Solapur, was pleased to hand over the possession of said vehicle in favour of its lawful owner namely Mr. Arif Shaikh i.e. respondent No.3 It is to be noted here that, Kiran Kattimani respondent No.2 the owner of the said vehicle Mr. Kiran B. Kattimani had availed loan by hypothecating the said vehicle from the petitioner company.

The said Kiran B. Kattimani committed default in making repayment. It is the case of the petitioner, that the respondent No.2 surrendered the said vehicle with the Finance Company. On the other hand, a crime bearing No.666 of 2016 on 8.9.2016 has been lodged by the respondent No.3 Arif Shaikh alleging that the employees of the finance company forcibly took possession of the said vehicle and have also committed offence of robbery. In this back ground, the learned Magistrate was pleased to hand over the possession of the said vehicle in favour of the respondent Nos.2 and 3 and in particular respondent No.3. While granting possession, the learned Magistrate has directed to execute a Bond of Rs.8.00 lakhs which respondent No.3 has done.

3] In view thereof, according to me, the application filed below Exhibit-1 i.e. M.A. No.1777 of 2016 under Section 457 of Cr. P.C by the petitioner was wholly misconceived and the Trial Court has rightly rejected it by its impugned Order dated 7.2.2017. This Court finds no error, either in law or on facts committed by the Trial Court while passing the impugned Order.

4] Petition is dismissed in limine.

(A.S.GADKARI, J.)