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

WRIT PETITIOIN NO.1935 OF 2014

Managing Director,
Hutatma Kisan Ahir Sugar Factory Ltd

..Petitioner

Vs

Sou. Yashodha Shivaji Waghmode & Ors.

.Respondents

Mr. Ranjeet Patil for Petitioner.
Mr. Nagesh Chavan for Respondent No.1.
Mr. A.R. Patil, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 18th September 2018.

P.C.:

1] By the present petition under Article 227 of the Constitution of India, the petitioner has impugned the Order below Exh.-1 dated 4.2.2012 passed by the learned Judicial Magistrate First Class, Jath in Criminal Misc. Application No.249 of 2011 and Judgment and Order dated 29.4.2014 passed by the learned District Judge-1 And Additional Sessions Judge, Sangli in Criminal Revision Application No. 25 of 2012, dismissing the said Revision.

2] Heard Mr. Patil, the learned counsel appearing for the petitioner, Mr. Chavan, the learned counsel appearing for the respondent No.1 and the learned APP for State. Perused the record.

3] The petitioner is the original respondent No.2 in Criminal Misc. Application No.249 of 2011 filed by the respondent No.1 under section 94 of Cr. P.C. for search of her vehicle namely TATA Truck bearing No.MH-09-L-101 alleged to be in the possession of the petitioner.

It is the case of the respondent No.1 that, she had given the said truck on rent to the respondent No.2 for the crushing season of year 2010-2011 which ended in April 2011. That despite completion of said sugarcane season, the respondent No.2 neither paid her dues nor returned the said truck. After taking due search, it was revealed to respondent No.1 that the respondent No.2 had forcibly retained the said vehicle in the precincts of their factory and therefore the respondent No.1 has filed the aforesaid application under section 94 of Cr. P.C. before the Judicial Magistrate First Class. The petitioner filed its say to the said application and contended that, it had paid Rs.4.00 Lakhs to the respondent No.2 as an advance for transportation of the sugarcane for the said crushing season of year 2010-

2011 and as the respondent No.2 did not comply with the terms of the contract, in pursuance of Indemnity Bond executed by the respondent No.2, the petitioner has retained the said vehicle towards non-payment of the said dues. It is further contended that, the said truck was kept as a pledge/guarantee for performing the contract inter-se between the petitioner and the respondent No.2. The petitioner therefore prayed that the said application may be rejected. The learned Judicial Magistrate First Class, Jath, District Sangli by the impugned Order dated 4.2.2012 was pleased to allow the said application and issued search warrant under section 94 of Cr. P.C.

4] Being aggrieved by the said Order dated 4.2.2012, the petitioner herein preferred a Criminal Revision Application No. 25 of 2012 in the Court of District Judge at Sangli. The learned District Judge-1 And Additional Sessions Judge, Sangli by the impugned Judgment and Order dated 29.4.2014 was pleased to dismiss the said Revision by a speaking Order. The said two Orders dated 4.2.2012 and 29.4.2014 are impugned herein respectively.

5] Perusal of both Orders would indicate that it is a matter of fact on record that, the respondent No.1 is the owner of the said truck and she

had given the said truck on a rental basis for transportation of sugarcane to the respondent No.2 for crushing season for 2010-2011. That the respondent No.2 did not pay the rent nor returned the said truck after completion of crushing season. The respondent No.2, without obtaining consent of the respondent No.1 had pledged and/or kept the said truck as a guarantee with the petitioner. That the respondent No.2 had accepted Rs.4.00 lakhs as advance amount for transportation of said sugarcane. It is to be further noted here that, the petitioner did not take any care to verify whether the respondent No.2 had in fact any authority under the law to pledge the said truck and or keep it as a guarantee with it before advancing the said amount of Rs.4.00 lakhs in favour of the respondent No.2.

6] The petitioner is having various remedies available under the statute for recovering its amount of Rs.4.00 lakhs from the respondent No.2 and in the absence of consent from the respondent No.1 for pledging the said truck with the petitioner for acceptance of the loan by the respondent No.2, the petitioner cannot claim the custody of the said truck as a matter of right.

7] In view of the peculiar facts and circumstances of the present case, this Court is of the considered view that the petitioner has no locus standi to challenge the Order dated 4.2.2012 passed by the learned Judicial Magistrate First Class, Jath Distirct-Sangli in Criminal Misc. Application No.249 of 2011. That both the Courts below have not committed any error while passing the impugned Orders dated 4.2.2012 and 29.4.2014 respectively.

8] In view of the above, the petition being devoid of any merits is accordingly dismissed.

(A.S.GADKARI, J.)