

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.13584 of 2018

K.Santhakumar

.... Petitioner

Vs

1.The Superintendent of Police
Office of the Superintendent of Police
No.5, GRD Road, Coimbatore Central
Coimbatore 641 018
Coimbatore District.

2.State rep by
Inspector of Police
District Crime Branch
Coimbatore 641 018
Coimbatore District.

3.State rep. by
Inspector of Police
East Police Station
Pollachi 642 001
Coimbatore District.

4.The Manager
M.M.Finance
116/1, AP Road
Choolai
Chennai 600 112.

सत्यमेव जयते ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 3 to consider the petitioner's representation dated 26.05.2018.

For petitioner :Mr.P.Kalimuthu

For R1 to R3 :Mr.D.Raja,
Government Advocate

ORDER

This writ petition has been filed seeking a writ of mandamus to direct the respondents 1 to 3 to consider the petitioner's representation dated 26.05.2018.

2. It is the case of the petitioner that he purchased a Toyota Fortuner vehicle bearing Registration No.TN-38-BQ-9000 from one Anish; the said Anish had purchased the vehicle under a Hire Purchase Agreement with one M.M.Finance; the petitioner had paid substantial amounts to the said Anish on the specific agreement that, Anish will make payments to M.M.Finance; it came to the knowledge of the petitioner that Anish had not made payment to M.M.Finance; the petitioner has given a complaint against Anish and has also notified M.M.Finance that he has purchased the vehicle after due payment to Anish; the petitioner has given a representation dated 28.05.2018 to M.M.Finance and sent a copy of the representation to the Superintendent of Police and has thereafter, filed the present writ petition with the above prayer.

3. Mr.Kalimuthu, learned counsel for the petitioner placed strong reliance on a judgment of the Supreme Court in ICICI Bank Ltd. vs. Prakash Kaur and others [(2007) 2 SCC 711] and an unreported judgment of this Court in W.P.No.23670 of 2011 dated 23.04.2012 [G.Palanisamy v. The Branch Manager, State Bank of India, Erode].

4. In the first judgment, the Supreme Court has deprecated the practice of private banks appointing musclemen and causing nuisance to borrowers. The Supreme Court has given certain suggestions to the Reserve Bank of India for issuing certain directions to financial institutions.

5. In this case, the petitioner, after having purchased the vehicle from Anish, should have himself gone and paid the amounts to M.M.Finance. He did not do that for the reasons best known to him. At the end of the day, M.M.Finance have not received the monthly instalments under the Hire Purchase Agreement. Therefore, in the light of the judgments of the Supreme Court in Charanjit Singh Chadha and others vs. Sudhir Mehra [AIR 2001 SC 3721] and Anup Sharma vs. Bhol Nath Sharma and others [(2013) 1 SCC 400], M.M.Finance has got a right to possess the vehicle.

6. Further, in this case, the first respondent does not have any statutory obligation to dispose of the representation given

by the petitioner in anticipation that M.M.Finance is likely to seize the vehicle. It is always open to the petitioner to work out his remedies before the civil Court and not before the writ Court.

With the above observations, this petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Superintendent of Police
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Coimbatore District.

2.The Inspector of Police
District Crime Branch
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+1cc to Mr.P.Kalimuthu, Advocate Sr.35768

W.P.No.13584 of 2018

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srg 12/06/2018

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