



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.R.C.No.635 of 2019
and CrI.M.P.8818 of 2019

UCO Bank,
Represented by
Assistant General Manager,
1st Floor, No.328,
Chennai Main Branch,
Thambu Chetty Street,
Chennai 600 001.

.. Petitioner

Vs.

1. Sessa Rao,
S/o.Mr.Venkateswaralu,
No.60, Varadha Muthiappan Street,
1st Floor, Shop No.26,
Chennai-600 001.

2. M/s.Sathya Sayee Cold Storage Pvt. Ltd.,
Represented by Resolution Professional,
Ms.Rajashree Santhanam,
(Under orders of Hon'ble NCLT, Chennai),
TF No.109, Anna Fruit Wholesale Market Complex,
Phase II Koyambedu, Chennai -600 092. .. Respondents

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the order dated 24.05.2019 passed in
CrI.M.P.No.1725 of 2019 in CrI.M.P.No.4531 of 2018 on the file
of the Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Ms.S.Varsha

O R D E R

This petition has been filed seeking to set aside the order
dated 24.05.2019 passed in CrI.M.P.No.1725 of 2019 in
CrI.M.P.No.4531 of 2018 on the file of the Chief Metropolitan
Magistrate, Egmore, Chennai.



2. For the sake of convenience, the parties will be referred to by their name.

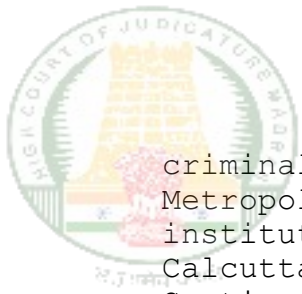
3. Sesha Rao obtained a loan from UCO Bank, by mortgaging his property viz., three shops in Anna Fruit Wholesale Market Complex, Koyambedu, Chennai and defaulted in making repayment of the said loan. Therefore, the UCO Bank initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act") and filed Crl.M.P.No.4531 of 2018 under Section 14 of the SARFAESI Act to take possession of the shops belonging to Sesha Rao.

4. Getting wind of it, Sathya Sayee Cold Storage Private Limited, claiming themselves to be in occupation of two of the shops, filed Crl.M.P.No.1725 of 2019 in Crl.M.P.No.4531 of 2018 before the Chief Metropolitan Magistrate, Egmore, Chennai, for rejecting the request of the UCO Bank. The Chief Metropolitan Magistrate, by order dated 24.05.2019 in Crl.M.P.No.1725 of 2019 in Crl.M.P.No.4531 of 2018, has not only allowed the petition filed by Sathya Sayee Cold Storage Private Limited, but has also dismissed the request of the UCO Bank in toto. Aggrieved by the order dated 24.05.2019, the UCO Bank is before this Court under Section 397 r/w 401 Cr.P.C.

5. Heard Ms.S.Varsha, learned counsel for the UCO Bank, who, submitted that the UCO Bank's petition under Section 14 of the SARFAESI Act, ought not to have been rejected by the Chief Metropolitan Magistrate, especially in the light of the fact that Sathya Sayee Cold Storage Private Limited were having only two shops in their possession. She further contended that the right of the UCO Bank, to take possession ought not to have been stifled by the Chief Metropolitan Magistrate at the threshold. It is her further contention that against the order of the Chief Metropolitan Magistrate dismissing the petition filed by the UCO Bank under Section 14 of the SARFAESI Act, the UCO Bank has no other remedy under the Act.

6. This Court gave its anxious consideration to the submissions made by Ms.Varsha, learned counsel for the UCO Bank.

7. In the opinion of this Court, the order passed by the Chief Metropolitan Magistrate in the application filed by the UCO Bank under Section 14 of the SARFAESI Act, is not amenable to the revisional jurisdiction of this Court under Section 397 r/w 401 Cr.P.C., because, the learned Chief Metropolitan Magistrate has exercised his powers under Section 14 of the SARFAESI Act as persona designata and not in the capacity of a



criminal Court inferior to the High Court. The Court of Chief Metropolitan Magistrate is a vestige of the British era and this institution is peculiar to the Presidency towns of Bombay, Calcutta and Madras. Outside these three cities, the power under Section 14 of the SARFAESI Act is exercised by the District Magistrate (District Collector) and not the Chief Judicial Magistrate.

8. In such view of the matter, the order impugned herein cannot be interfered with. However, it is open to the UCO Bank to challenge the order passed by the Chief Metropolitan Magistrate either under Section 226 or 227 of the Constitution of India, if so advised.

This criminal revision stands dismissed with the above observation. Connected Crl.M.P. stands closed. The Registry is directed to hand over the original impugned order to the learned counsel for the petitioner after keeping on file a photocopy of the same.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

nsd

To

The Chief Metropolitan Magistrate,
Chennai.

Copy To

1. The Deputy Registrar,
Criminal Section,
Madras High Court.
2. The Section Officer,
Criminal Section,
High Court, Madras

+1cc to Ms.S.Varsha, Advocate SR.No.59629

Cr1.R.C.No.635 of 2019

VSN -II(CO)
GMY(19/08/2019)