**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-24926 of 2016
Date of decision: 08.04.2019

AU Financers Ltd. and another

......Petitioners

versus

State of Haryana and others

......Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Nitin Thatai, Advocate, for the petitioners.
Mr. R.K. Makkar, Sr. DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through instant petition under Section 482 Cr.P.C. prayer has been made for quashing FIR No.744 dated 14.07.2016 registered under Sections 379A, 365, 411, 34 IPC at Police Station Gurgaon Sadar, Haryana and all consequential proceedings arising therefrom.

In nutshell, respondents No.2 and 3 availed loan facility of ₹4,50,000/- to purchase a Swift Dzire car and executed various documents, like loan agreement, hypothecation agreement, undertaking etc. etc. in favour of petitioner No.1. However, respondents No.2 and 3 did not adhere to the financial discipline of petitioner No.1 and, thus, became defaulters. Consequently, as per terms and conditions of the loan agreement, petitioners referred the matter to arbitrator, who passed interim award dated 13.07.2016 (Annexure P-10), thereby appointing petitioner No.2 – Raman Chauhan as receiver and authorising him to seize and take possession of the hypothecated car from the custody of respondents No.2 and 3 or any other person who is in possession of the same with the help of police, if required.

Certain other guidelines/directions were given to the receiver to obtain market valuation report of the hypothecated car etc. etc. Resultantly, aforesaid receiver took possession of the hypothecated car on 14.07.2016. Being aggrieved, respondent No.2 lodged aforesaid FIR against the petitioners.

Learned counsel for the petitioners *inter alia* contends that petitioner No.1 as a moneylender and petitioner No.2 as a receiver took possession of the car, pursuant to the interim award of the arbitrator. Therefore, they have committed no offence under Sections 379A, 365, 411, 34 IPC. Notice of this petition was given to respondents No.2 to 4 i.e. borrowers and guarantors of the loan amount. However, despite their service, they did not opt to contest the instant petition.

On the other hand, learned State counsel refuting the above submissions, opposed the quashing of impugned FIR.

Having given thoughtful consideration to the rival submissions, this Court finds the instant petition merits acceptance for the reasons to follow.

No illegal act has been done by the petitioners inasmuch as they, after obtaining a legal interim order from the arbitrator, pursuant to terms and conditions of the loan agreement, took possession of the hypothecated car.

Respondents No.2 to 4, despite their service did not appear, which shows that they are not much interested in pursuing the FIR got lodged by them against the petitioners.

In view of discussion made above, petition is allowed. FIR

No.744 dated 14.07.2016 along with all consequential proceedings arising therefrom, is quashed.

(Ramendra Jain)
April 08, 2019 **Judge**
R.S.

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No