IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION NO. 7916 of 2020

==========

KOGTA FINANCIAL INDIA LTD. THRO JITENDRA SINGH BHANWARSINGH RAJPOOT

Versus

STATE OF GUJARAT

==========

Appearance:
MR RITURAJ M MEENA(3224) for the Applicant(s) No. 1
for the Respondent(s) No. 2,3
MR PRANAV TRIVEDI, ADDL. PUBLIC PROSECUTOR(2) for the Respondent(s) No. 1

==========

CORAM: **HONOURABLE MS. JUSTICE GITA GOPI**

Date : 17/12/2020

ORAL ORDER

RULE. Learned Additional Public Prosecutor waives service of notice of rule on behalf of the respondent State.

1. By way of this petition, the petitioner has prayed for deletion / modification of condition Nos.2 to 4 of the order dated 08.06.2018 passed by the Court of learned JMFC, Suigam in Criminal Misc. Application No.48 of 2017; or in the alternative, to permit the petitioner Company to hold an auction for the sale of the muddamal vehicle being “Mahindra Maxx Pickup” bearing registration No.GJ-08-V-2892 in order to recover its outstanding dues.

2. The petitioner is a finance company engaged in the business of financing transport vehicles. In the year 2016, the vehicle in question was purchased by Dharshibhai Rasengbhai

Raval, through the petitioner Company, which had financed the said vehicle. In connection with an FIR being Prohibition C.R. No.5055 of 2016 registered with Suigam Police Station, the vehicle in question came to be seized. As the vehicle was still under hypothecation, the petitioner Company preferred an application under section 451 Cr.P.C. before the trial Court. The said application came to be allowed vide order dated 08.06.2018 on certain terms and conditions. Being aggrieved by the conditions imposed by the trial Court, the present petition has been preferred.

3. Heard learned advocate for the petitioner and perused the material on record. The petitioner company has financed the vehicle in question, which still appears to be under hypothecation. The owner of the vehicle, i.e. original accused, does not appear to have made any efforts for claiming back the vehicle in question and therefore, the petitioner company had approached the trial Court for release of the vehicle. The main grievance of the petitioner is that the petitioner company could not recover its dues by selling the vehicle on account of condition Nos.2 to 4 imposed in the order passed by the trial Court. Considering the facts and circumstances of the case, it would be appropriate to permit the petitioner to sell the vehicle in question so that the petitioner could recover its outstanding dues.

4. In the result, the petition is allowed. The condition Nos. 2 to 4 of the order dated 08.06.2018 passed by the Court of learned JMFC, Suigam in Criminal Misc. Application No.48 of 2017 is deleted; it is, however, observed that as and when the vehicle is sold, the petitioner company shall furnish all the

relevant details of the new purchaser to the trial Court, which shall be kept on record of the criminal case. With the above observation, the petition stands disposed of. Rule is made absolute.

(GITA GOPI,J)

DIPTI PATEL