

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 1008 of 2020 (O&M)

Date of Decision: 24.07.2020

AU Small Finance Bank Ltd.

... Petitioner(s)

Versus

State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Ms. Deepika Mittal, Advocate
for the petitioner(s).

Mr. Chetan Sharma, Deputy Advocate
General, Haryana for the respondent.

Anil Kshetarpal, J.

The challenge herein is to the order passed by the learned Additional Sessions Judge, Ambala, dismissing the application, filed by the petitioner, for grant of *sapurdari*/interim custody of the vehicle bearing registration No. HR-51-BB-2968 to the petitioner-Bank.

The petitioner-Bank claims that the vehicle in question was hypothecated with the bank and since, the registered owner-Rajesh Kumar has failed to pay the principal amount as well as interest at the agreed rate and consequently, violated the terms and conditions of the loan, therefore, the Bank has lien and first charge over the vehicle in question.

Admittedly, the petitioner-Bank is not the registered owner of the vehicle. The vehicle is only alleged to have been hypothecated with the Bank. Therefore, the application filed on behalf of the Bank has been held to be not maintainable.

Learned counsel for the petitioner relies upon the judgment of the Supreme Court of India in ***Ganga Hire Purchase Pvt. Ltd. v. State of Punjab (1999) 5 SCC 670***. This Court has carefully read the aforesaid judgment, wherein the validity of the order of confiscation of the vehicle under Section 60(3) of the Narcotic Drugs & Psychotropic Substances Act, 1985 was in question. The Supreme Court held that the finance company has no right to get the vehicle, which is liable to be confiscated. Learned counsel for the petitioner has further relied upon the judgment in ***Union of India v. Dinesh Kumar Verma (2005) 9 SCC 630***. In this brief order, the Hon'ble Supreme Court set aside the order of release of the vehicle on *sapurdari*.

The learned trial Court has specifically held that the petitioner is not the registered owner of the vehicle. In the revision petition, the petitioner has not claimed that the Bank is the registered owner. The petitioner only claims that the vehicle has been hypothecated with the Bank by the registered owner. The agreement *inter se* between the registered owner and the Bank does not give any right to the petitioner-Bank to claim the vehicle as a registered owner. In view thereof, there is no ground to interfere.

Dismissed.

The miscellaneous application(s) pending, if any, shall also stand disposed of in terms of the main order.

(Anil Kshetarpal)
Judge

July 24, 2020
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No