

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

CRM-M-31117-2022

Date of Decision: 14.11.2022

AU Small Finance Bank Ltd.

..... Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Nitin Thatai, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for quashing of the order dated 16.05.2022 passed by the Court of learned Additional Sessions Judge, Jagadhri in FIR No.241 dated 25.10.2021, registered under Section 364-A IPC, at Police Station Radaur, District Yamunanagar, whereby, application filed by the petitioner-Bank for releasing vehicle bearing registration No.HR97A-9366 financed by the petitioner-Bank on superdari, was dismissed.

Learned counsel for the petitioner submits that the petitioner-Bank had financed the vehicle bearing registration No.HR97A-9366 purchased by respondent No.3 and all the terms and conditions were mentioned in the agreement signed by both the parties. He has submitted that after having got the vehicle financed from the petitioner-Bank, respondent No.3-Sumit Kumar @ Nitu did not pay even a single instalment, rather the vehicle was involved in a criminal case i.e. FIR No.241 dated 25.10.2021, registered under Section 364-A IPC, at Police Station Radaur, District Yamunanagar. He submits that the vehicle was taken into

possession by the Investigating Agency as a case property. He submits that respondent No.3-Sumit Kumar @ Nitu was arrested and thereafter, he is in custody as on date. He submits that keeping in view the future of the vehicle, the petitioner-Bank in all its fairness filed the application for releasing the same on superdari as the same would turn into junk while lying in the Police Station. He has submitted that the learned trial Court declined the same primarily on the ground that the petitioner-Bank had not initiated any recovery proceeding and the account of respondent No.3-Sumit Kumar @ Nitu was not declared NPA. He has submitted that thereafter, the petitioner-Bank initiated arbitration proceedings and during the pendency of the present petition, the arbitration proceedings have been concluded vide order dated 19.10.2022. He has submitted that as this arbitration order has been passed after passing of the impugned order dated 16.05.2022 and thus, the same was not the part of the record before the learned trial Court. He submits that the petitioner-Bank is ready to file a fresh application for releasing the vehicle on superdari by producing on record the arbitration order dated 19.10.2022. Learned counsel for the petitioner has prayed that the impugned order dated 16.05.2022 be quashed and the case be remanded for fresh decision by allowing the petitioner to file fresh application alongwith arbitration award for kind perusal of the trial Court who will pass afresh order keeping in view the overall facts and circumstance of the case. He further submits that giving fresh decision on the application after hearing the parties would not prejudice the interest of respondent No.3-Sumit Kumar @ Nitu.

Notice of motion.

Mr. B.S. Virk, Deputy Advocate General, Haryana, accepts notice on behalf of the State and submits that status report has already been filed. He submits that in the FIR alleged, challan has already been submitted under Section 173 Cr.P.C.

After hearing learned counsel for the parties and perusing the record, this Court is of the opinion that the prayer made by learned counsel for the petitioner-Bank is not prejudicial to the interest of respondent No.3. As has been submitted by learned counsel for the petitioner that the arbitration proceedings culminated during the pendency of the petition and hence, the trial Court dismissed the application filed by the Bank.

In these circumstances, it is directed that in case the petitioner files a fresh application supported by documentary evidence i.e. arbitration award etc. for release of said vehicle on superdari, then the Court concerned will decide the same afresh as per law after issuing notice and also giving proper hearing to respondent No.3. The impugned order dated 16.05.2022 is set aside accordingly.

The petition stands disposed of in the terms mentioned above.

14.11.2022
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Whether Speaking/Reasoned :
Whether Reportable :

(RAJESH BHARDWAJ)
JUDGE

Yes/No
Yes/No