

12.04.2023

Item No.42
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 1622 of 2021

**Avijit Patra
versus
The State of West Bengal & others.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Subhankar Chakraborty,
Ms. Ruchira Manna ... For the Petitioner.

Mr. Sudip Ghosh,
Mr. Bitasok Banerjee ... For the State.

Report dated 11.04.2023 submitted by Mr. Sudip Ghosh, learned advocate appearing for the State be kept with the record.

The subject-matter of challenge in the present revisional application relates to an order dated 03.02.2021 passed by learned Additional Chief Judicial Magistrate, Ghatal in connection with Ghatal Police Station Case No. 202 of 2019 dated 14.07.2019.

Learned advocate appearing for the petitioner submits that the applicant before this Court happens to be an officer of Hinduja Leyland Finance Limited who prayed before the learned court for return of the vehicle pursuant to an order passed in the civil proceedings by the learned City Civil Court, Calcutta. Learned advocate submits that the owner of the vehicle happened to be a defaulter and as such, the finance company having paid the money for purchase of the vehicle under the necessary agreement and contract was entitled to have possession of the vehicle. A criminal case was

registered for an untoward incident under the provisions of Sections 279/338/283/427 of the Indian Penal Code which was pending before the learned Additional Chief Judicial Magistrate, Ghatal. The financier had no relation with the incident which was the genesis of the criminal case. The financier is only interested regarding the custody of the vehicle. To that extent, an application under Section 457 of the Code of Criminal Procedure was filed before the learned Additional Chief Judicial Magistrate, Ghatal. The learned Additional Chief Judicial Magistrate, Ghatal by its order dated 03.02.2021 dismissed the said application.

Having regard to the settled proposition of law, particularly with devaluation of a vehicle concerned, I direct that if the custody of the vehicle till date has not been handed over by the learned Additional Chief Judicial Magistrate, Ghatal to any other person, in that case, the learned Additional Chief Judicial Magistrate, Ghatal will on production of the documents relating to the agreement entered between Hinduja Leyland Finance Limited and the registered owner of the vehicle, hand over the custody of the vehicle to Hinduja Leyland Finance Limited or its representatives.

As the criminal case is pending, the amount of the bond would be to the satisfaction of the learned Additional Chief Judicial Magistrate, Ghatal. However, one of the conditions which must be imposed is that during the pendency of the criminal case, the finance company i.e.

Hinduja Leyland Finance Limited will not alienate the vehicle and/or change the nature and character of the vehicle.

Consequently, the order dated 03.02.2021 passed by the learned Additional Chief Judicial Magistrate, Ghatal is set aside.

The revisional application being CRR 1622 of 2021 is, thus, allowed.

Pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)