

CRR-424 of 2022 (O&M)

2023:PHHC:077605

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

CRR-424 of 2022 (O&M)

Date of decision: 25.05.2023

AU Small Finance Bank Ltd.

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Ms. Deepika Mittal, Advocate, for the petitioner.
Mr. Zorawar Singh Chauhan, DAG, Haryana.

NAMIT KUMAR, J.

1. This revision petition has been filed by the petitioner under Section 401 Cr.P.C. against the order dated 03.02.2022 passed by the Court of learned Additional Sessions Judge, Narnaul, whereby application filed by the petitioner for possession of vehicle make Bolero bearing registration No.RJ02UA-9566 by way of sapurdari, has been dismissed.

2. Briefly stated, aforesaid vehicle bearing registration No.RJ02UA-9566 was taken into custody by the police in case FIR No.607 dated 17.11.2000 under Sections 323/324/506/201/34 IPC, Section 25/54/59 of the Arms Act and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act registered at Police Station City Narnaul. The said vehicle was released on sapurdari by the Court of learned Additional Sessions Judge, Narnaul, vide order dated 08.10.2021 in favour of respondent No.2 on furnishing of sapurdaginama and surety bonds of Rs.10,00,000/-. Thereafter,

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petitioner filed application for possession of the aforesaid vehicle by way of sapurdari, which was dismissed by the Court of learned Additional Sessions Judge, Narnaul, vide impugned order dated 03.02.2022. Hence this petition.

3. Learned counsel for the petitioner contended that impugned order is perverse and contrary to the law. She further submitted that respondent No.2 was given a loan of Rs.7,40,000/- by the petitioner-bank for buying vehicle on execution of hypothecation agreement. She further submitted that respondent No.2 failed to pay the monthly instalments as per the hypothecation agreement. Therefore, petitioner has first charge over the vehicle in question. She further submitted that there is arbitration award dated 16.10.2021 (Annexure P-6) in favour of the petitioner, whereby petitioner has been authorized to take possession of the vehicle in question and execution proceedings in this regard are pending. Hence, the impugned order is liable to be set aside and vehicle in question may be released in favour of the petitioner.

4. On the other hand, learned State counsel submitted that application of the petitioner has rightly been dismissed by the Court as petitioner is not the registered owner of the vehicle in question. Hence, present revision petition is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the record.

6. Perusal of the record shows that vehicle in question i.e. Bolero bearing registration No.RJ02UA-9566 has been released to

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respondent No.2 on sapurdari vide order dated 08.10.2021 by the Court of learned Additional Sessions Judge, Narnaul. Thereafter, an application was moved by the petitioner before the Court of learned Additional Sessions Judge, Narnaul, to get the vehicle on sapurdari which was dismissed vide impugned order dated 03.02.2022 after taking into consideration the report from the police authorities and verification of the registration certificate which shows that he is the registered owner of the said vehicle, whereas it is nowhere mentioned in the registration certificate that vehicle in question was financed by the petitioner-bank. However, petitioner produced a hypothecation certificate issued by the RTO Alwar before the trial Court in support of its contention that vehicle in question is hypothecated with the petitioner-bank but the same cannot take place of registration certificate.

7. In view of the above, I do not find any illegality or perversity in the impugned order. In case, there is any award in favour of the petitioner with regard to possession of vehicle in question, it can get executed the same in accordance with law.

8. Present revision petition is disposed of with above observations.

25.05.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No