

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

CWP-33044-2019

**Judgment reserved on : 03.08.2023
Judgment pronounced on: 17.10.2023**

MURSALIN @ MOHD. BHURU

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

**Argued by: - Mr. Hem Raj Bhardwaj, Advocate
for the petitioner.**

Mr. Saurav Verma, Addl. A.G. Punjab

**Mr. Nitin Thatai, Advocate
for respondents No.5 and 6.**

VINOD S. BHARDWAJ. J.

1. The prayer made in the present writ petition is for directing Respondent No. 5 and 6 to hand over the possession of the vehicle bearing registration number "PB13BE6952," which they took in illegal and forcible possession through recovery agents/musclemen, in violation of their own "Fair Practices Code."

2. Learned counsel for the petitioner has argued that the petitioner had purchased a Commercial Heavy Goods Vehicle bearing Registration number PB13BE6952 by obtaining a loan of 13,91,477/- from Respondent No. 6, i.e., HDB Financial Services Ltd. He further stated that the petitioner was behind bars due to an FIR registered against him, and in the absence of the petitioner, recovery agents/musclemen took forcible and illegal

possession of the above said vehicle. After getting regular bail, the petitioner made several attempts to approach Respondent No. 6 to deposit the due installment, but Respondent No. 6 did not allow the petitioner to deposit the due installment and insisted on clearing all dues.

3. It is also contended that the said vehicle had been forcibly repossessed by the respondents in violation of the guidelines framed by the Hon'ble Supreme Court, and as such, they are liable to be prosecuted. Besides, the possession of the said vehicle should be returned to the petitioner.

4. A short reply by way of an affidavit of Manoj Gors, PPS, Deputy Superintendent of Police, Sub Division Moonak, District Sangrur, was filed on behalf of Respondent No. 1, 3, and 4, wherein it was averred that upon receiving a complaint from the petitioner, the matter was entrusted for inquiry to ASI Kulwinder Singh. During the inquiry, the petitioner recorded his statement that he does not want to pursue the complaint with the police authorities. Accordingly, based on the petitioner's statement, ASI Kulwinder Singh, in his report dated 20.10.2019, recommended non-filing of the complaint received from the petitioner, and this recommendation was approved by SI Gurmeet Singh, the then SHO of Police Station Moonak, on 22.10.2019. Thereafter, no further complaint was received from the petitioner in that regard, and if any such further complaint is received from the petitioner, it will be dealt with in accordance with the law.

5. Further, it is also seen that there is no averment of the petitioner that the respondents No.5 and 6 are agencies and instrumentalities of the state or are discharging any public function or public duties. The copy of the agreement executed between the petitioner as well as the Finance Company

has also not been appended along with the instant writ petition so as to appreciate the terms and conditions of the agreement executed between the parties.

6. Besides, this Court has already examined the issue of maintainability of writ petitions by the borrowers against the Finance Companies as regards the action initiated against repossession of the vehicle. in **CWP-7599-2020 titled as ‘GURSHARAN SINGH VS. STATE OF PUNJAB AND OTHERS’, decided on 06.10.2023** that such writ petitions are not maintainable at the behest of the borrowers against the private Finance Companies as they are not discharging any public functions or public duties.

7. The present writ petition is accordingly disposed of in terms of **CWP-7599-2020 titled as ‘GURSHARAN SINGH VS. STATE OF PUNJAB AND OTHERS’, decided on 06.10.2023.**

(VINOD S. BHARDWAJ)
JUDGE

OCTOBER 17, 2023
vishal sharma

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>