



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

991 CRIMINAL WRIT PETITION NO. 1109 OF 2024

KIRAN SOPANRAO DAKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Ms. Bharati B. Gunjal Advocate for Petitioner.
Mr. D.J. Patil, A.P.P. for Respondent Nos. 1 and 2.
...

CORAM: S.G. MEHARE, J.

DATE : 20th JULY, 2024

ORDER :

1. Heard learned counsel for the petitioner and learned APP for the State.
2. The petitioner has a case, the vehicle of which he claims possession, was seized from the spot of the incident and shown as property in the charge sheet. The trial has been concluded. However, there were no orders for the disposal of the property after the conclusion of the trial. Hence, he moved an application through jail. In the application, he did not make any person a party. On the contrary, he stated that the vehicle was not mentioned in the charge sheet. Considering the submissions, the learned Additional Sessions Judge-5, Parbhani, observed that the reference of the vehicle was not made during the investigation;

this Court disposes of the case; the applicant/accused can take appropriate action as per law.

3. Learned counsel for the petitioner is asking this Court to exercise the extraordinary jurisdiction of this Court. Time and again, she argues that this Court may pass the order under writ jurisdiction. The application filed by the petitioner was vague. He did not even disclose whose possession the vehicle was. Learned counsel would submit that the vehicle in question was purchased by borrowing the loan from Shriram Finance, and the officials of Shriram Finance had handed over the vehicle's keys to the Police.

4. The application shows that the petitioner did not disclose the facts about the possession of the vehicle before the learned Sessions Court. Unless the plea of possession of the vehicle with the Police or somebody else is raised and such person is a party, it is difficult for any Court to decide the application. Section 452 of the Code of Criminal Procedure provides for an order for the disposal of property at the conclusion of the trial. If any order of disposal is not passed, the party concerned, who claims title and possession of the property seized in crime, shall apply under that Section. It is the duty of the person claiming the property to disclose the fact of his title and the possession of the vehicle. Since no details were given, the learned trial Judge has correctly

passed the order. The said order has not been passed on merit. The Court just observed that the applicant can take appropriate action as per law. However, instead of taking appropriate action, he approached the High Court. Even today, nobody knows where the said vehicle is. Perhaps the property might have been seized by the Finance Company. It was the hypothecated vehicle; the title may be with the finance company.

5. In view of the above, the Court does not find any substance in the Petition. The legal remedy is available to the petitioner under Section 452 of the Code of Criminal Procedure. Hence, there is no question of exercising extraordinary jurisdiction under the Constitution of India. The Writ Petition stands dismissed.

[S.G. MEHARE, J.]