

Sushil Kumar

State of Punjab and others ...Respondents

Mr. Subhash Godara, Addl.A.G., Punjab.

The present petition has been filed under Section 482 Cr.P.C. seeking issuance of directions to respondents No.1 to 3 to take necessary steps to the effect that there is no obstruction in plying of the vehicle of the petitioner and to take appropriate legal action against respondents No.4 & 5 who are trying and making an attempt to forcibly take away the vehicle of the petitioner with the help of recovery agents and henchmen.

2. The brief facts of the case are that the petitioner purchased vehicle bearing registration No.PB 06 AL 0072 by taking loan from respondents No. 4 and 5. The vehicle was financed by respondent No. 4 through its Branch i.e. respondent No.5. The financed amount was Rs. 45,50,000/- and the same was to be repaid in 60 monthly installments of Rs.92,896/- commencing from 20.12.2022 to 20.11.2027. The account summary prepared by petitioner is annexed as Annexure P-1. The petitioner has paid substantial amount, however, the respondents are adamant to recover the vehicle forcibly only because few

installments are due which has occurred due to restructuring of loan which was done without petitioner's consent and without informing him. On 18.01.2024, the petitioner went to take the statement of account of his vehicle and requested the Branch Manager that he is trying to make the balance payment at the earliest but because of some financial difficulty, he could not arrange the money to pay the installments. However, the Branch Manager asked him to part the vehicle with the Company or else they would recover it forcibly through their recovery agents. This reflects that petitioner is a *bonafide* person and could not pay the installments only on account of his financial difficulty. Learned counsel for the petitioner further contends that now the recovery agents of respondents No. 4 and 5 are making desperate attempts to recover the vehicle bearing registration No. PB 06 AL 0072.

3. The Hon'ble Supreme Court recently vide its judgment dated 26.02.2007 in case titled as 'Manager, ICICI Bank Ltd. vs. Prakash Kaur and others' deprecated and denounced the practice of forcibly taking possession.

The observation of Hon'ble Apex Court is as follows:-

"In conclusion, we can say that we are governed by a rule of law in the country. The recovery of loans or seizure of vehicles could be done only through legal means. The bank can not employ Goondas to take possession by force."

4. Notice of motion.

5. Mr. Subhash Godara, Addl.A.G., Punjab puts in appearance on receipt of advance notice of the present petition.

6. With the consent of the parties, the present case is taken up for final disposal in view of settled law. Respondent No.2-Senior Superintendent of

Police, District Pathankot is directed to take all necessary steps to ensure that there is no obstruction in plying of the vehicle of the petitioner at the behest of respondents No. 4 and 5.

7. Learned State counsel submits that it is the duty of the State to protect the life and liberty of every citizen and to ensure that the rule of law is maintained.

8. Disposed of in above terms.

(HARPREET SINGH BRAR)
JUDGE

22.03.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No