IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4782 OF 2024

Kailas S/o. Ashokkumar Sarda,
Age: 32 Years, Occu. : Service,
R/o. Gajanan-Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed. **.... Applicant**

VERSUS

1. The State of Maharashtra,
Through The Police Inspector,
Majalgaon City Police Station,
Tq. Majalgaon, Dist. Beed.

2. Mr. Dnyaneshwar S/o. Ramkisan Chavhan,
Age : 40 Years, Occu. : Agri.,
R/o. Telgaon, Tq. Dharur, District Beed.
At present R/o. Jijau Chowk,
Manjrath Road, Majalgaon,
Tq. Majalgaon, Dist. Beed. **.... Respondents**

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Advocate for Applicant : Mr. M.P. Kale h/f Mr. Sharad Solanke
APP for Respondent No.1-State : Ms. R.P. Gaur

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CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.
Dated : 13th June 2025

PER COURT :-

1. The present application has been filed under Section 582 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "the

BNSS"), for quashing the First Information Report (for short “the F.I.R.”) vide C.R. No.0372 of 2024, dated 26.09.2024, registered with Majalgaon City Police Station, Tq. Majalgaon, Dist. Beed, for the offence punishable under Section 303(2) of The Bharatiya Nyaya Sanhita, 2023 (for short “the BNS”).

2. Heard learned Advocate for the applicant as well as learned APP for the State.

3. Learned Advocate appearing for the applicant submits that the applicant is a Chief Officer of Jay Mahesh Multistate Vehicle Services Co-operative Society Ltd. Pune, Branch at Majalgaon. Respondent No.2/informant had purchased a four wheeler vehicle bearing No.MH-25-R-1992, with the assistance of finance given by the company of the applicant. The said vehicle was hypothecated to Jay Mahesh Multistate Vehicle Services Co-operative Society Ltd. and the entry in respect of the said hypothecation is in the R.C. Book of the said vehicle. In the hypothecation agreement, the informant had agreed that he would pay the installments regularly and in case of default, the company would be at liberty to take the possession of the vehicle. The said document has been produced along with the application.

4. Learned Advocate further submits that respondent No.2/informant has contended that, on 11.09.2024, at around 02.00 p.m., when his wife was inside the house, she could see that somebody was trying to take away the Bullero vehicle which was parked in front of his house. She tried to stop the vehicle, however, the person had not stopped it and taken it away. This fact was informed to the informant by her and then he has expressed in the F.I.R. that the vehicle would have been taken by the present applicant who is the person from the finance company. However, the F.I.R. came to be lodged against unknown person. The informant was not regular in repayment of installments. Therefore, in view of the condition in the hire-purchase agreement, the finance company has taken the possession of the vehicle. It does not then amount to theft.

5. Learned Advocate for the applicant relies on the judgment of the Hon'ble Apex Court in ***Charanjit Singh Chadha and Others Vs. Sudhir Mehra [AIR 2001 SC 3721]***, wherein it has been observed as under :

> *"Where the hire purchase agreements between parties specifically gave authority to the non-banking finance company to repossess the vehicle and their agents were given the right to enter any property or building wherein the motor vehicle was likely to be kept and under the hire purchase*

> *agreement, said Company continued to be the owners of the vehicle, no offence of cheating, criminal breach of trust or theft of vehicle could be said to have been committed by the Company, who was the owner of vehicle, when on failure of hirer to pay the installments due, the Company took possession of the vehicle, from the motor mechanic who was in possession of vehicle for certain repairs to be carried out. The hire-purchase agreement in law is an executory contract of sale and confers no right in rem on hirer until the conditions for transfer of the property to him have been fulfilled. Therefore, the repossession of goods as per the term of the agreement may not amount to any criminal offence."*

6. Learned APP submits that there appears to be a hire-purchase agreement. However, there is nothing on record with her i.e. investigation papers, which would show that the present applicant was authorized to seize the vehicle and therefore, it would be a matter of evidence.

7. The documents on record and even the police papers would show that the vehicle was under hire-purchase agreement. Even at this stage also, it appears that the Investigating Officer had not taken efforts to collect the hire-purchase agreement from the finance company. Respondent No.2/informant has not intentionally stated that he committed default in repayment of installments. Yet the

fact remains as it is that the finance company is the owner of the said vehicle, but it was given to the informant for plying or for his use by keeping the ownership of the vehicle with the finance company itself.

8. In view of **Charanjit Singh Chadha (Supra)**, repossession of the said vehicle for and on behalf of the finance company will not be any criminal offence as the intention to commit theft or dishonest intention is missing. The ownership is still with the finance company and the owner cannot commit theft of his own article or vehicle. A case is made out for exercising of powers under Section 482 of the Cr.P.C. Hence, the following order.

<u>ORDER</u>

I) The application stands allowed.

II) The First Information Report vide C.R. No.0372 of 2024, dated 26.09.2024, registered with Majalgaon City Police Station, Tq. Majalgaon, Dist. Beed for the offence punishable under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023 stands quashed and set aside as against the present applicant.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asd