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

CRM-M-23286-2025

Date of decision: 02.05.2025

Dharamveer Sharma

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nipun Bhardwaj, Advocate
for the petitioner.

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

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for issuance of directions to respondent No.4 to not interfere in the free plying of the vehicle of the petitioner bearing registration No.PB-19-H-9233 and to take appropriate legal action against respondent No.4 who is not allowing the petitioner to ply his vehicle freely for the purpose of transport business.

2. The brief facts of the case are that the petitioner purchased second hand Tata LPT 3118T commercial vehicle bearing registration No.PB-19-H-9233 in the year 2023 and the same was financed by respondent No.4, as such, hypothecation of loan was entered in the registration certificate of the vehicle. The financed amount of the vehicle was Rs.7,30,000/- which were to be paid in 36 monthly installments. It is further alleged that the petitioner has already paid 33 installments and only three installments are overdue till date. Further, the petitioner has paid the substantial amount, however, respondent No.4 is adamant to recover the vehicle forcibly only because three installments



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are due which has occurred on account of severe slump in transport business of the petitioner.

3. Learned counsel for the petitioner submits that now the recovery agents of respondent No.4 are making desperate attempts to recover the vehicle bearing registration No.PB-19-H-9233. He further submits that on 09.03.2025, when the vehicle of the petitioner was on road for business purpose, it was stopped by agents/musclemen of respondent No.4. He submits that due to wrongful and consistent actions of respondent No.4, the vehicle of the petitioner remained un-operational and stationary, resulting in heavy losses. Learned counsel further submits that action of private respondent is not only against the settled principal of law but also against the judgment passed by Hon'ble Apex Court in 'ICICI Bank Ltd. vs. Shanti Devi Sharma', 2008 (7) SCC 532 and 'Manager, ICICI Bank Ltd. vs. Parkash Kaur', 2007(2) SCC 711. He furthermore submits that even the guidelines issued by Reserve Bank of India in Clause (III) of Clause (B) of the Master Circular-Fair Practices Code dated 01.07.2015, postulates non-coercive methods of recovery. Lastly, he submits that the action of respondent No.4 falls within the teeth of Article 19 of Constitution of India.

4. Notice of motion.

5. Mr. Subhash Godara, Addl. A.G., Punjab, who is present in the Court, accepts notice on behalf of respondents No.1 to 3 and 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.

6. The Hon'ble Supreme Court recently vide its judgment dated 26.2.2007 in case titled as Manager, ICICI Bank Ltd. (supra) deprecated and



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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 vehilces could be done only through legal means. The bank can not employ Goondas to take possession by force."

7. With the consent of the parties, the present case is taken up for final disposal in view of settled law. The Senior Superintendent of Police, Barnala-respondent No.2 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 respondent No.4.

8. The petitioner undertakes to clear entire outstanding amount within a period of 08 weeks from today and will continue to pay the pending installments on time. In case of default of payment, respondent No.4 is at liberty to take appropriate steps against the petitioner in accordance with law.

9. Disposed of in above terms.

(HARPREET SINGH BRAR)
JUDGE

02.05.2025

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