2025:PHHC:044491

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRWP-10906-2024 (O&M)
Date of decision: 02.04.2025

Harjeet Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Bhinder, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

Mr. Indresh Goel, Advocate
for respondent No.4.

Mr. Atul Goyal, Advocate
for respondents No.5 and 6.

HARPREET SINGH BRAR J. (Oral)

1. The present criminal writ petition has been filed under Article 226 of the Constitution of India, for issuance of directions to respondents No.2 to 4 to protect the life and liberty of the petitioner and his property i.e. truck bearing registration No. PB-11DB-2038 and to take appropriate legal action against respondents No.5 and 6, who are trying and making an attempt to forcibly take away the vehicle of the petitioner bearing registration No.PB-11DB-2038.

2. The brief facts of the case are that the petitioner took a loan of approximately Rs.22 lakh in the month of August, 2022 from ICICI Bank Ltd. to finance an Ashoka Leyland vehicle, with a monthly

installment of Rs.46,300/-. The vehicle, registered under No.PB-11DB-2038, was hypothecated to the bank. The petitioner defaulted on 08 installments from April to August 2024, totaling approximately Rs.3,70,400/-, and have paid only 18 installments amounting to around Rs.8,33,400. On 03.05.2024, the vehicle of the petitioner was involved in an accident in Aligarh, Uttar Pradesh, and the petitioner contracted Dengue on 09.10.2024, leading to hospitalization in Patiala. Due to ongoing health issues and a business crisis, the petitioner has been unable to make the monthly loan payments. Now, the respondents are attempting to forcibly recover the said vehicle due to the non-payment of the monthly installments. The recovery agents attempted to seize the vehicle of the petitioner on 08.10.2024, but were unsuccessful.

3. Learned counsel for the petitioner submits that due to action of respondents No.5 and 6, the petitioner is unable to use the vehicle to earn an income, fearing further attempts of forced recovery. He further submits that the petitioner also filed a representation dated 08.10.2024 (Annexure P-4) with respondent No.4, however, no action has been taken so far and furthermore, the respondents are threatening the petitioner to implicate him in false cases by misusing the security cheques.

4. Learned counsel for respondents No.5 and 6 submits that in compliance of the order passed by this Court, the petitioner has only paid Rs.2.00 lacs. He further submits that the petitioner has availed the loan of Rs.22.00 lacs and till date, he has only repaid approximately

Rs.6.00 lacs and total outstanding amount is Rs.16.00 lacs (approximately). He further contends that respondents No.5 and 6 are not creating any hindrance in plying the truck, in question by the petitioner and they have already issued a loan recall notice dated 14.03.2024 and also issued a notice under Section 13(2) of the SARFESI Act on 07.11.2024.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. 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."*

7. In view of the above, the present petition is disposed of with a direction to the Senior Superintendent of Police, Patiala – respondent No.2 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.5 and 6.

8. The petitioner undertakes to clear entire outstanding amount within 8 weeks and will further continue to pay the remaining installments. In case of default of payment, respondents No.5 and 6 are

at liberty to take appropriate steps against the petitioner in accordance with law.

9. Disposed of in above terms.

(HARPREET SINGH BRAR)
JUDGE

02.04.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No