

(2011) 12 KAR CK 0229
In the Karnataka High Court
Case No : Criminal Petition No. 4790 of 2011

M/S Indusind Bank Ltd.

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 34, 465, 468, 471, 473

Citation : (2011) 12 KAR CK 0229

Hon'ble Judges : B.V. Pinto, J

Bench : Single Bench

Advocate : Nataraj, for the Appellant; Satish R. Girji, HCGP, for the Respondent

Judgement

B.V. Pinto

1. This petition it filed seeking a direction that the petitioner may be permitted to release the Fixed Deposit Receipts lodged in the nationalised bank and to disburse the same with interest after setting aside the order dated 12.09.2007 on the conclusion of the trial passed in CC No. 2602/2009 on the file of 3rd Additional Munsiff Judge and J.M.F.C., at Shimoga, The case arise out of the Crime No. 69/2005 of Jayanagar police Station, Shimoga District registered for the offences punishable U/s. 465, 468, 471, 473, 420 r/w Sec 34 of IPC.

2. It is the case of the complaisant that, for nonpayment of the installment of two vehicles bearing Registration Nos, KA-204147 and KA-20-B-7779, the vehicles were seized by petitioner bank In respect of the said transactions, the aforesaid ease has been registered, The petitioner being entitled to the custody of the vehicle in pursuance of the loan agreement entered in between the hirer and the petitioner the petitioner bank was permitted to sell the vehicles, However, the learned Magistrate has directed that the safe proceeds of the said vehicle amounting to Rs. 10,37,760/- shall be deposited in the Nationalised Bank and the same shall be payable to the petitioner only after the conclusion of the trial. It is the said order which this petitioner is seeking modification.

3. Heard Sri. Nataraj, learned counsel for the petitioner and Sri. Satish R. Girji, learned HCGP for the State/Respondent.

4. It is not in dispute that the petitioner is entitled for return of vehicle since the petitioner is the financier of the said vehicle. It is also not in dispute that the vehicles have been sold, Present by the amount which has been kept in the bank has grown to Rs. 11,32,916/- and the petitioner's counsel submits that, petitioner being a financier running a business in accordance with RBI guidelines, he is entitled for the use of the said amount instead of keeping the said amount idle in the bank. Hence, he submits that, it may be released under any conditions suitable to the Court in the interest of justice, Hence, he prays for allowing the application.

5. The learned HCGP on the other hand submits that, in the event the amount does not go to the petitioner at the conclusion of the trial and in the event of Court holding that, the petitioner is not entitled to the custody of the vehicles the petitioner is required to return the amount. However, the apprehension of the learned HCGP may be met by imposing suitable conditions,

6. Accordingly, the petition is allowed. The trial Court as directed to issue necessary orders to the concerned bank for permitting the petitioner to encash the Fixed Deposit Receipt No SED 456658 for a sum of Rs. 10,00,000/- kept in Syndicate Bank, Durgigudi Branch, Shimoga District and return the money along with interest to the petitioner on the following conditions:

1) The petitioner shall execute an indemnity bond for Rs. 10,00,000/- in favor of the Court below.

2) Petitioner shall furnish as guarantee, RCs of another vehicle or vehicles worth Rs. 10,00,000/- to the Court and that the Court shall transmit the same to the concerned RTO for endorsement regarding liability of the said vehicle as guarantee furnished to the- Court.

3) As soon as the criminal case is concluded the said endorsement of the said vehicles shall be deleted by the concerned RTO as per the orders of the learned Magistrate.

4) The said vehicle/vehicles should not be sold without permission of the Court below till the disposal of the criminal case in C.C. No, 3602/2009.