

(2005) 07 MP CK 0001

In the Madhya Pradesh High Court

Case No : Miscellaneous Cri. No. 9149 of 2004

Shri Ram City Union Finance Ltd.

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 12-07-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 394

Citation : (2005) 4 MPLJ 220 : (2006) 1 RCR(Criminal) 281

Hon'ble Judges : S.L. Jain, J

Bench : Single Bench

Advocate : Ku. Neelam Goyal, for the Appellant; Asim Dixit, for the Respondent

Final Decision : Allowed

Judgement

S.L. Jain, J.

Invoking extraordinary jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, the petitioner has filed this petition for quashing the proceedings of Crime No. 1071/04, for an offence punishable u/s 394 of the Indian Penal Code registered at police station Garha, Jabalpur against the petitioner.

The facts leading to the registration of the case succinctly narrated are thus:-

(1) Petitioner Shri Ram City Union Finance Limited, a company registered under the Companies Act, 1956 financed a TVS Victor motor cycle bearing registration No. M.P. 20 KK 1139 to one Narendra Singh Thakur. As per hire-purchase agreement deed said Narendra Singh Thakur was bound to pay the monthly instalment in time. He committed Misc. Cri. Case No. 9149 of 2004 decided on 12-7-2005. (Jabalpur) breach of the conditions of hire purchase agreement. A notice was issued to said Narendra Singh Thakur for making the payment and regularizing the account. Despite service of the notice, the borrower failed to make the repayment and clear the dues, therefore, the petitioner/Company exercising its right and authorities of repossession authorised Raghunandan to

seize the said vehicle by a letter dated 26-11-2004. Accordingly, the vehicle was seized by Raghunandan. The applicant also informed the Station House Officer, Garha, Jabalpur regarding seizure of the vehicle in exercise of the powers under hire-purchase agreement. Borrower Narendra Singh Thakur lodged a false report against the creditor on the basis of which Crime No. 1071/04 for an offence punishable u/s 394 of the Indian Penal Code was registered against the petitioner/Company at Police Station Garha, Jabalpur.

I have heard Kumari Neelam Goyal, learned counsel appearing for the applicant and Shri Asim Dixit, Learned Govt. Advocate appearing for the State and perused documents filed along with the petition. A perusal of these documents reveals that the issue between the complainant Narendra Singh Thakur and petitioner relates to purchase of motor cycle and the same is purely of civil nature. Money was advanced to Narendra Singh Thakur by the financier. Even assuming that the petitioner/Company or its agent seized the motor cycle, it was claimed to have been done in exercise of bona-fide right of seizing the vehicle on the borrower's failure to pay amount of instalments in time.

In my opinion, under the facts and circumstances of the case, the First Information Report lodged against the applicant and the Crime registered against the applicant deserves to be quashed. The financier is found to have taken back the possession of the financed vehicle on the stand of the terms and conditions of the hire purchase agreement on account of failure of hire purchaser to pay the amount of instalments as per the agreement.

In K. A. Mathai alias Babu v. Kora Bibbikutty, (1996) 7 SCC 212 , it has been laid down that if the possession of the vehicle is taken by the financier as per terms of the hire-purchase agreement, the act does not amount to a criminal offence.

In view of this judgment the registration of the offence against the financier u/s 394 of the Indian Penal Code is liable to be quashed in exercise of inherent powers.

In the result, the petition is allowed. The First Information Report lodged by Narendra Singh Thakur and the proceedings in Crime No. 1071/04, registered at Police Station Garha, Jabalpur against the applicant for an offence punishable u/s 394 of the Indian Penal Code are quashed.