

(2011) 03 KAR CK 0314
In the Karnataka High Court
Case No : Criminal Petition No. 1047 of 2011

Shriram Transport Finance Co. Ltd.

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 15-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 102, 41 (d)
Penal Code, 1860 (IPC) — Section 34, 406, 420

Citation : (2011) 03 KAR CK 0314

Hon'ble Judges : K.N. Keshavanarayana, J

Bench : Single Bench

Advocate : M. Ashok Kumar, for the Appellant; P.M. Nawaz, Addl. SPP, for the Respondent

Final Decision : Allowed

Judgement

K.N. Keshavanarayana, J.—The Petitioner-M/s. Shriram Transport Finance Co. Ltd., (for short "Company"), which is claiming to be the financier in respect of four tractors, filed complaint against the borrower, for the offences punishable u/s 41(d) r/w. Section 102 of Code of Criminal Procedure and Sections 406, 420 r/w. 34 of IPC other allied offences. On the basis of the said complaint, Tiptur Rural Police registered the case and took-up investigation. During investigation, four tractors were seized at the instance of the accused and they were produced before the learned Magistrate. The Petitioner being the financier to the said four tractors and in whose favour the tractors have been hypothecated, sought for interim custody of those tractors. The said application came to be rejected by the learned Magistrate. However, in revision, the learned Sessions Judge by the order impugned in this petition, allowed the said application subject to certain conditions. The Petitioner in this petition is aggrieved by one of such conditions imposed in the said order. As per the said condition, the Petitioner herein is required to execute an Indemnity bond for Rs. 40,00,000/- with one solvent surety for the like-sum to the satisfaction of the learned JMFC, Tiptur. It is the contention of the Petitioner that this condition is too harsh and irrational having

regard to the total value of the seized tractors-trailers. According to the learned Counsel for the Petitioner, the value of each of the tractor-trailer put together is not more than Rs. 5,00,000/-, therefore, the total value of the four tractors-trailers would works-out to only Rs. 20,00,000/- whereas the Petitioner has been directed to execute an Indemnity bond for Rs. 40,00,000/-. A copy of the policy of insurance in respect of one of the seized tractor-trailer is produced to show that the insured value of the said tractor including the trailer is only Rs. 4,94,000/-. All the tractors were manufactured in the year 2007.

2. Having regard to the value of each of the tractors-trailers, which are now ordered to be released to the interim custody of the Petitioner being not more than Rs. 5,00,000/-, in my opinion, the Petitioner is justified in contending that the condition directing him to execute an Indemnity Bond for Rs. 40,00,000/- is too harsh and irrational. The value of the motor vehicles gets reduced day-by-day, therefore, the value of each of these tractors-trailers cannot go beyond Rs. 5,00,000/-. Therefore, it is just and proper to modify the said condition by directing the Petitioner to execute an Indemnity Bond for Rs. 20,00,000/- as against Rs. 40,00,000/- as ordered by the learned Sessions Judge.

3. In view of the above, the petition is allowed. The condition imposed by the learned Sessions Judge in Crl.R.P. No. 68/2010 dated 04.01.2011 directing the Petitioner herein to execute an Indemnity Bond for a sum of Rs. 40,00,000/- (Rupees Forty Lakhs) is modified. The Petitioner is directed to execute an Indemnity bond for a sum of Rs. 20,00,000/- (Rupees Twenty Lakhs) with one solvent, surety for the like-sum to the satisfaction of the learned Magistrate. Accordingly, this petition is disposed of.