

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 148 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PRADEEPSINH MANGALSINH JADEJA

Versus

STATE OF GUJARAT

Appearance:

MR PB MAJMUDAR for Petitioner

MR.AG URAIZEE, ADDL.P.P. for Respondent No. 1

M/S THAKKAR ASSOC. for Respondent No. 2

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 28/06/96

ORAL JUDGEMENT

Rule. Service of Rule waived by Mr.A.G.Uraizee, learned A.P.P.on behalf of respondent - State and Mr.P.M.Thakkar, learned Advocate on behalf of Respondent No.2.

2. The petitioner, original complainant, in Complaint under Sections 406 and 409 I.P.C. filed in Jamnagar City 'B' Division Police Station against Ashok Leyland Finance Limited Company and others, has preferred

this Revision Application under Section 397 of the Code of Criminal Procedure, 1973 (2 of 1974) (if necessary, will be referred to as "the Code") against the impugned order dated 12.4.1996 rendered by the I/C.J.M.F.C., Jamnagar in City "B" Division Police Station M.Case No.47/96.

3. It was the case of the petitioner that he had booked Maruti car in 100% finance scheme of Ashok Leyland Finance Limited Co. According to the petitioner's say he was and is ready to pay regular instalments as per the scheme. The petitioner's signature was also taken on TTO form by the Financier with a view to see that the financier could take possession in case of default in payment of instalment by the petitioner. The financier, instead of giving possession of the car to the petitioner, had given possession thereof to one Mr.Jivanbhai B. Patel. Under such circumstances the aforesaid complaint came to be filed. During the pendency of the proceeding of the aforesaid complaint both, the financier as well as the petitioner, had an occasion to move an application for return of muddamal car. The learned Magistrate, after hearing the parties had passed the order for returning the car in question to respondent No.2 (financier) on certain conditions.

4. I have heard the learned Advocate for the petitioner and the learned A.P.P. for Respondent No.1 and the learned Advocate for respondent No.2. I have gone through the order passed by the learned Magistrate. In my opinion there is no reason to disturb the said order in view of the facts and circumstances of the case.

5. Rule is, therefore, discharged. However, endsof justice will befurther served by the statement made on behalf of respondent No.2. The respondent No.2 accordingly has stated through his learned Advocate Mr.Thakkar that respondent No.2 will have no objection in entertaining the request of the petitioner for car finance provided he is willing to offer security for the amount of advance to the satisfaction of the company. It is further stated that if the security to the satisfaction of the company is furnished, necessary action will be taken within 15 days. This statement, in my opinion, to an extent answers the case of the petitioner. 6. In view of what is stated above and in view of the aforesaid statement this peition is required to be dismissed.

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