

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC. APPLICATION (RECALL) NO. 22303 of 2025
In
R/SPECIAL CRIMINAL APPLICATION/2283/2022

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MAS FINANCIAL SERVICES LIMITED THROUGH UMESH R. GANDHI
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR NEEL VASANT(13667) for the Applicant(s) No. 1
TIRTH NAYAK(8563) for the Applicant(s) No. 1
NOTICE SERVED BY DS for the Respondent No. 2
MR RONAK RAVAL APP for the Respondent No. 1

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CORAM: HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 19/06/2026

ORAL ORDER

1. By way of this application, the applicant Mas Financial Services Ltd. is seeking recall and modification of the order dated 26.04.2022, passed in Special Criminal Application No. 2283 of 2022.
2. The applicant Mass Financial Services Ltd., is a Non-banking Financial Company, has preferred this application, inter-alia, stating that, the order dated 26.04.2022 passed in Special Civil Application No. 2283 of 2022 having been obtained by suppressing material facts with regard to hypothecation of the vehicle in question.
 - (a) The vehicle Tata Motors bearing Registration No. GJ-03-W-7961, came to be seized by Bhavnagar Police with respect to the offence registered with Veravadar, Bhal Police Station, Bhavnagar dated

08.06.2020 in connection with the offence punishable under Sections 65(a)(e), 116, 98(2) and 81 of the Gujarat Prohibition Act.

- (b) The vehicle was originally purchased by Chandrasinh Jadeja. Mr. Jadeja obtained a loan from the applicant Company and loan-cum-hypothecation agreement dated 31.01.2020 had been executed. Despite of this, the RC book owner Mr. Jadeja, by agreement dated 23.02.2022, sold the vehicle to respondent Pradipgiri Goswami. The vehicle was seized from Pradipgiri Goswami, who was the accused of the aforesaid FIR.
- (c) The applicant company thereafter requested the Vallabhipur Court, for releasing the vehicle under Section 451 of the Cr.P.C, as they are the Financier and as per the hypothecation agreement, the first charge is with the Company. The Vallabhipur Court, considering the newly added section in the Prohibition Law, on the ground of jurisdiction, rejected the prayer vide order dated 16.04.2021 to release the vehicle in favour of the applicant-company.
- (d) The respondent Pradipgiri thereafter, filed a writ petition dated 24.02.2022, without joining the company as a party respondent, inter-alia, praying that, the vehicle seized by the Bhavnagar Police be released pending the criminal case.
- (e) This Court vide order dated 26.04.2022, by allowing the writ application, directed the concerned authority to release the vehicle in favour of the applicant herein. The vehicle has been already released

in favour of Pradipgiri Goswami.

- (f) So far as criminal case is concerned, the Vallabhipur Court acquitted Pradipgiri and others and while acquitting the accused, the trial Court passed an order of confiscation of the vehicle and permitted the authority concerned to sale by auction. The applicant company, by filing Revision Application before the Sessions Court, Bhavnagar, challenged the order of confiscation. The Revisional Court on this limited issue remanded the matter to the trial Court for taking a decision afresh and set aside the confiscation order.
3. Under such circumstances, the applicant finance company has filed this application, inter-alia, praying that the respondent Pradipgiri has suppressed the material facts about the right of the finance company, as at relevant time, when the vehicle was seized, it was hypothecated with the applicant company and original owner failed to pay the due amount of loan, as agreed by him and therefore, it is prayed that, the order of releasing the vehicle is being obtained without disclosing the material facts and though the company is necessary party, was not joined intentionally and therefore, the order in eye of law is null and void and same is required to be recalled so as to do substantial justice.
4. I have heard learned counsel Mr. Tirth Nayak, appearing for and on behalf of the applicant Company and Mr. Ronak Raval, learned APP for the respondent State. So far as respondent – Pradipgiri Goswami is concerned, the notice has been served upon his lawyer Mr. A.M.

Saiyed.

5. Mr. Nayak, learned advocate for the applicant has stated that the respondent has suppressed the material facts and misled the court, as the applicant Company with whom the vehicle is hypothecated, was not joined and behind the back of the company, without disclosing the necessary facts about the loan transaction, the order has been obtained. He would further urged that when the applicant company prior to filing of the application, applied for the vehicle before the Vallabhipur Court, the accused made endorsement that he has no objection, if vehicle is handed over to the applicant company. Despite of this fact, subsequently, the respondent Pradipgiri Goswami had approached this Court by way of writ application filed under Article 226 of the Constitution of India, claiming the interim custody of the vehicle. If the true facts about the charge of the vehicle had it been disclosed, then, the court would not have passed the order of release of the vehicle. Because the law is settled that the company who has financed the vehicle, having first charge to get possession of the vehicle etc. In such circumstances, it is submitted that, it is a fit case to exercise judicial discretion by recalling the order.

6. Learned APP Mr. Ronak Raval, has adopting the contention advanced by Mr. Nayak and urged that, the respondent Goswami failed to disclose the true facts about the loan transaction and hypothecation of the vehicle and therefore, Court may pass necessary order.

7. Mr. Saiyed, learned advocate, who had earlier appeared in the main petition, though served, did not remain present to assist the court.
8. Having regard to the peculiar facts and circumstances of the present case and on perusal of the material placed on record, it is not in dispute that the applicant Company had financed the RC book owner of the vehicle Mr. Jadeja and vehicle in question was hypothecated and remarks to this effect also made in the R.C. Book produced by the parties. The respondent Mr. Goswami is the purchaser of the vehicle and on 08.06.2020, the vehicle was in the possession of accused, which came to be seized by the Bhavnagar Police in connection with the FIR registered for the offences punishable under the Gujarat Prohibition Act. The respondent Goswami was knowing about the hypothecation of the vehicle and charge of the applicant company. He suppressed three things before this Court, (i) issuance of NOC in favour of the applicant Company before the Vallabhipur Court about the release of the vehicle and same facts having not been pleaded in his petition (SCR.A No. 2283 of 2022), (ii) the factum of pending dues of the applicant Company and hypothecation have not been pleaded in the petition and (iii) despite of charge of the applicant Company upon the vehicle, the Finance Company is necessary party for the adjudication of the interim custody, as claimed. However, the Company had not been joined, as party respondent in the writ petition.
9. In such circumstances, the order of interim custody of the vehicle passed on 26.04.2022 in Special Criminal Application No. 2283 of

2022 is nullity in eye of law as it has been obtained by suppression of material facts by the respondent Mr. Goswami. Thus, I am satisfied that the necessary facts for adjudication of the application, having been suppressed by the respondent Goswami. In that view of the matter, the High Court can recalled its order obtained by suppression of material facts by exercising its inherent jurisdiction as such an order is nothing but a nullity. The respondent Goswami was duty bound to disclose all necessary and material facts with respect to vehicle including the charge of the applicant Company. The Supreme Court and this Court in its various decisions have consistently held that the litigants, who approached the court with unclean hands are not entitled to be heard on merits, nor are they entitled for any relief. In a case of **K.D. Sharma Vs. Steel Authority of India and others, (2008 (12) SCC 481)**, the Supreme Court emphasis the necessity and truthful complete disclosure in writ jurisdiction , stating that, the jurisdiction of the Supreme Court and High Court is extra-ordinary, equitable and discretionary. It was observed that, the prerogative writs are not issued to those, who are guilty of fraud, suppression of material facts or making misleading statements. The Supreme Court relied on precedent like **S.P. Chengalvaraya Naidu Vs. Jagannath (1994 (1) SCC 1)**, to hold that the fraudulent judicial acts must be treated as nullity.

10. For the reasons recorded, in my opinion, the respondent Goswami had approached the Court without disclosing the material facts, which has directly bearing on the adjudication of the claim. Thus, by exercising inherent powers and having regard to the peculiar facts of

the present case, this is a fit case wherein the order dated 26.04.2022 passed in SCR.A No. 2283 of 2022 is required to be recalled and accordingly, it is hereby recalled.

11. The registry is directed to list the original Special Criminal Application No. 2283 of 2022 for fresh hearing. The applicant Mas Financial Services Ltd. and original R.C. Book owner Mr. Chandrasinh Jadeja are necessary parties and they have been joined as respondents in the application. The applicant is directed to carry out necessary amendment and provide the fresh address of R.C. Book owner, so as to hear him.
12. With the aforesaid observations and directions, present application stands disposed of.

P.S. JOSHI

(ILESH J. VORA,J)