

**CHAPTER VI**  
**PENAL CODE OFFENCES**

Case No. 42

**IN THE SUPREME COURT OF INDIA**

**CRIMINIAL APPELLATE JURISDICTION**

CRIMINIAL APPEAL NO. 68 OF 2003  
[ Arising out of S.L.P. (Crl.) No.649 of 2002]

M/S. KOTAK MAHINDRA PRIMUS LTD.

APPELLANT ( S)

VS

STATE BY D.S.P., KARNATAKA & ANR.

RESPONDENT (S)

Vehicle confiscated - no notice to the financier who is the registered owner - Financier a 'person aggrieved' within the meaning of Section 454 Cr.P.C. -Locustandi to file appeal available.

**ORDER**

Leave granted.

A Maruti Omni van bearing registration No. KA 19-N-4994 was subject -matter of an offence under Section 395 of the Indian Penal Code. A challan was filed and on committal the offence was tried by the 1<sup>st</sup> Additional Sessions Judge, Dakshina Kannada, Managalore, registered as Sessions Case No.103/1999. On trial the accused, not parties in this appeal, were directed to be acquitted vide the judgment dated 30.7.2001. The Maruti Omni van was produced in the Trial Court and exhibited as M.O. 15 during the trial. At the conclusion of the trial, the Trial Court directed the van to be confiscated to the State. The appellant before us claims to be the registered owner of the vehicle having financed the same under a hire purchase agreement. Before directing confiscation of the vehicle under Section 452 of the Criminal Procedure Code, no notice was given by the Trial Court to the appellant. When the appellant become aware of the order, the appellant filed an appeal under Section 454 of the Criminal Procedure Code in the High Court of Karnataka at Bangalore. The High Court has directed the appeal to be dismissed in limine forming an opinion that as the appellant had not approached the Sessions Court, he was not entitled to file an appeal laying challenge to the order of the Trial Court in the matter of disposal of the property. While dismissing the appeal the High Court allowed liberty to the appellant

to agitate and establish its claim to the said vehicle in a competent Civil Court

Having heard the learned counsel for the appellant and the State-respondent, we are satisfied that the order of the High Court cannot be sustained. The appellant was a person adversely affected by the Trial Court order under Section 452 of the Cr.P.C. and therefore, was a 'person aggrieved' within the meaning of Section 454 and hence having locus to file an appeal. The appeal should have been heard and decided on merits and in the event of the High Court feeling it necessary to do so in the ends of justice should have set aside the order of the Trial Court to the extent to which it was put in issue by the appellant in the High Court and directed the Trial Court to hear and decide the matter as to disposal of the seized vehicle after affording appellant an opportunity of hearing

The order of the High Court deserves to be set aside and that we do hereby. However, we feel that a remand to the High Court may not serve any useful purpose and it would better meet the ends of justice if the issue as to disposal of the seized vehicle is directed to be heard afresh and decided by the Trial Court.

The appeal is allowed. The impugned order of the High Court dated 18.10.2001 as also the impugned judgment of the Trial Court dated 30.7.2001 to the extent to which it orders disposal of M.O. 15 Maruti Omni van by confiscation to the State are set aside. The Trial Court shall hear and decide the matter as to the disposal of M.O. 15 Maruti Omni van afresh after affording an opportunity of hearing to the appellant the State and such other parties as the Trial Court may deem fit to notice.