

GAHC020003542023



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)
KOHIMA BENCH**

Case No. : Crl. Pet./14/2023

SMTI. LONGKONGSONLA CHANG
D/O THONGCHUBA MATHEBA CHANG,
R/O 3RD MILE DIMAPUR, NAGALAND

VERSUS

THE STATE OF NAGALAND
KOHIMA NAGALAND

Advocate for the Petitioner : ANUNGLA LKR

Advocate for the Respondent : P.P, NAGALAND

**BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 28-11-2023

Heard Mr. Toshitemjen Pongener, learned counsel for the petitioner and Mr. Veto V. Zhimomi, learned Public Prosecutor (P.P.), Nagaland for the State respondents.

2. This is an application under Section 482 read with Section 451 of the Code of Criminal Procedure, 1973 praying for release of Maruti Alto LXBSIV which was seized in connection with GR No. 373/2023 corresponding with East P.S. Case No. 144/2023 under Section 279/304(A) IPC read with 181/183(1)/184 Motor Vehicles Act (MV Act).

3. The case of the petitioner is that on 03.06.2023, one Sam Omong purchased her vehicle, Maruti Alto LXBSIV, bearing Registration

No. AS 12J 2489 on the agreed sale consideration of Rs. 1,80,000/- (rupees one lakh eighty thousand). The purchaser took the vehicle after payment of advance amount of Rs. 1,00,000/- (rupees one lakh) only, but on the same day, the purchaser, Sam Omong met an accident with the said vehicle, due to which one person died and as a result the vehicle was seized by the police and a case was registered, being East P.S. Case No. 144/2023 under Section 279/304(A) IPC read with 181/183(1)/184 MV Act. The further case of the petitioner is that on the same day the petitioner had approached the purchaser (accused) and his family for return of her vehicle and revocation of the Sale Deed which was done by executing an affidavit before the Notary Public and the advance amount of Rs. 1,00,000/- (rupees one lakh) had also been returned to the accused purchaser.

4. It is the further case of the petitioner that she had approached the learned court of the Chief Judicial Magistrate, Dimapur and filed an application praying for release of her said vehicle on *zimma*. However, her application was rejected by the learned CJM by an order dated 12.07.2023 passed in GR No. 373/2023 on the ground that the ownership of the vehicle has not been established by the petitioner.

5. The learned counsel for the petitioner submits that earlier the revocation of sale of the vehicle was executed between the family members of purchaser (accused), Sri Sam Omong and the petitioner. But after his release from jail custody on bail, the accused purchaser himself has executed an affidavit whereby he has declared that he had purchased the vehicle Maruti Alto LXBSIV bearing Registration No. AS 12J 2489, Engine No. FBDN4791067 and Chasis No. MA3E861S02016796 from the petitioner, Smti. Longkongsongla Chang, for a sum of Rs. 1,80,000/- (rupees one lakh eighty thousand) by paying an advance amount of Rs. 1,00,000/- (rupees one lakh) and the remaining amount of Rs. 80,000/- (rupees eighty thousand) was to be paid within a week. But, subsequently after he met with an accident on the way, the said Sale Deed was revoked and the petitioner had repaid a sum of Rs. 1,00,000/- (rupees one lakh) to his family to which

he had also acknowledged the receipt; and now he has no objection for revoking/cancelling the said Sale Deed. The petitioner has annexed the said affidavit executed by the accused purchaser as Annexure-1 to her additional affidavit.

6. Mr. Veto V. Zhimomi, learned P.P. has submitted the Status Report in connection with the GR No. 373/2023 wherein it is stated that the real owner of the vehicle was doubtful due to which the said vehicle could not be released by the learned CJM. However, Mr. Zhimomi fairly submitted at the Bar that now since the petitioner has produced the document whereby the accused purchaser has declared that the owner/petitioner has taken back her vehicle and he had returned the said vehicle after receipt of the repayment of the advanced amount of Rs. 1,00,000/- (rupees one lakh) from the petitioner, he has no objection, if a direction can be given for release of the said vehicle on *zimma*.

7. In view of the contention made in the petition, additional affidavit and considering the submission made by the learned counsels for the parties, this criminal petition is disposed of with a direction that the petitioner shall make a fresh application before the learned CJM, Dimapur along with relevant document for release of the vehicle Maruti Alto bearing registration No. AS 12J 2489 on *zimma*. And on receipt of such application being made by the petitioner, the learned CJM, Dimapur shall examine the case and pass necessary orders for release of the seized vehicle bearing Registration No. AS 12J 2489 on *zimma* on condition that the petitioner shall produce the said vehicle before the court as and when called for, with such other terms and conditions as may be deemed fit and proper.

8. With the above direction this petition stands allowed and disposed of.

Sd/-
JUDGE

Comparing Assistant