

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3233 OF 2014

Mr. Jangbahadur Singh Gujral ...Petitioner

Versus

The State of Maharashtra & Anr. Respondents

Mr. Yogesh Israni a/w Mr. Niranjan Mundergi
for the Petitioner.

Mr. A.R. Patil, APP, for the Respondent No.1-State.

Mr. Ravindra Kalamkar, API, present.

CORAM:-M.L. TAHALIYANI, J.

DATED : -5/3/2015

P.C.

Heard learned Advocate for the Petitioner and the learned
APP for the Respondent No.1-State.

2. This writ petition impugns the order passed by the Metropolitan Magistrate, 12th Court, Bandra, rejecting the prayer of the Petitioner for return of motor vehicle (Land Cruiser) bearing registration No. NL-05-C-1191 having Chassis No.JTEHC05J5040 23757. It is the case of the Petitioner that he is the registered owner of the Car and the Car has been registered within the jurisdiction of R.T.O. at Nagaland. This Car was purchased by the Petitioner from

one Mr Moideen Kunhi Mohd. The Car was given to one broker Raju Mishra, who informed the Petitioner that there was a purchaser for the Car who can give good price. The Car was accordingly handed over to Ajay Yadav, friend of Raju Mishra. This Ajay Yadav had in fact collected the Car from the Petitioner so that it can be showed to the proposed buyers. In the meantime, the Petitioner had applied for transfer of ownership of the said Car at R.T.O., Wokha at Nagaland. This Ajay Yadav filed a complaint at Sion Police Station for the offences punishable under section 379 of the IPC alleging *interalia* that Car was stolen from his possession. Lateron it was found that the Car was misappropriated by Raju Mishra, Ajay Yadav and Respondent No.2 Haroon Rashid Shaikh in furtherance of their common intention. FIR for the offences of criminal breach of trust and forgery were registered at Bandra Police Station on the complaint made by the Petitioner. The Car was found abandoned on the road. In view of this development at Bandra Police Station FIR registered at Sion Police Station was closed as 'B' summary. As such at present only one case is under investigation at Bandra Police Station vide C.R. No.40 of 2012. In the said case the present Petitioner is the complainant and Raju Mishra, Ajay Yadav and Respondent No.2 are the accused.

3. It is in these circumstances that an application was made before the Magistrate for return of the Car to the Petitioner. It may be noted here that Respondent No.2 had also moved the Court for grant of custody of the Car through his Advocate. He did not appear in person. It may also be noted here that he is absconding. Learned Magistrate rejected the prayer of the Petitioner as well as that of Respondent No.2. Learned Magistrate took the view that Petitioner and Respondent No.2 both were not in position to place sufficient documents before him with regard to ownership of the Car. He was of the view that unless the question of valid registration is finally decided, the Car could not be returned to the Petitioner.

4. In this regard it may be mentioned here that the police case is that Respondent No.2 got the Car registered at Mandsaur in Madhya Pradesh in his own name on the basis of certain forged documents. As such there are two sets of papers, one belonging to the Petitioner and other belonging to the Respondent No.2. Case of the Investigation Officer is that second set of documents belonging to the Respondent No.2 is the set of forged documents. In view thereof the Investigating Officer had no objection for grant of custody of Car to the Petitioner. Before this Court also learned APP Mr.A.R. Patil, on

instructions from Investigating Officer Mr. Kalamkar has submitted that State has no objection if the car is returned to the Petitioner on certain conditions. Hence, I pass the following order :

5. Land Cruiser bearing registration No. NL-05-C-1191 having Chassis No.JTEHC05J504023757 shall be returned to the Petitioner on execution of bond of Rs.15,00,000/- (Rupees Fifteen Lakhs only) with the following conditions :

- a) He will not part with the Car in any manner without prior permission of the Trial Court;
- b) He will not change the description of the Car in any manner without prior permission of the Trial Court;
- c) He will produce the Car before the Trial Court or any other competent court as and when required to do so.

6. Writ Petition stands disposed of accordingly.

(JUDGE)