

27.06.2022

Sl.No. 9
Ct.No.3
Amalranjan

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

MAT 194 of 2021

Tushar Karfa
VS
State of West Bengal & Ors.
With
IA NO: CAN/1/2021

Mr. Sanat Kumar Roy
Mr. Abhishek Banerjee

...for the appellant

Mr. Amal Kumar Sen
Mr. Ayan Banerjee

...for the State

Re: IA NO: CAN/1/2021

A stage carriage bus was intercepted and inspected by the authorities under Section 130 of the Motor Vehicles Act, 1988.

According to the documents issued by the motor vehicle Inspector (Enforcement) Office of the Sub-Divisional Officer, Arambagh, Hooghly, on 18th January, 2021, the appellant/writ petitioner's vehicle was not carrying the documents mentioned against serial no. 8 of the CHECKING OF MOTOR VEHICLES AND SEIZURE LIST (Annexure P-6, page 27 of the said petition).

However, it appears that the appellant petitioner entered into a composition agreement with the authorities under Section 200 of the Motor Vehicles Act, 1988, as a result of which the authorities compounded the offence on receipt of an amount of Rs. 5640/-.

Now it is submitted by learned counsel for the appellant/petitioner that all the documents were available in the vehicle. Hence, no offence had been committed by the appellant/petitioner. There was no question of composition thereof. His client was compelled to enter in to the composition agreement.

We cannot go into this question. Whether the appellant/petitioner was guilty of an offence is to be determined by the criminal court. Whether the appellant/petitioner was forced to enter into the composition agreement is a question of fact to be determined by the appropriate forum.

In those circumstances, we dispose of this appeal, the connected application and the writ application by observing and directing that the appellant/petitioner shall have an option of making a representation before the Sub-Divisional Officer, Arambagh, Hooghly, West Bengal regarding his above case.

The Sub-Divisional Officer may after hearing the appellant/petitioner cancel the composition order and order return of Rs. 5640/- to the appellant/ petitioner and start a criminal case against him. Or he may accept the explanation furnished by the writ petitioner/appellant that the vehicle was carrying all the papers and pass an order exonerating the appellant/writ petitioner and the consequential order for return of the said amount of Rs. 5640/- or come to the decision that the compounding of the offence was valid and had become final.

Any representation by the appellant/ writ petitioner should be made within two weeks from date. The same should be disposed of by the SDO, Arambagh, Hooghly, after hearing the appellant/ petitioner within four weeks of receipt thereof.

(Subhendu Samanta,J.) (I. P. Mukerji,J.)