

* **IN THE HIGH COURT OF DELHI AT NEW DELHI** DELHI AT NEW DELHI 00579
+ **CRL.M.C. 3315/2021**



Date of Decision: 15.02.2022

IN THE MATTER OF:

MOHD. ISLAMPetitioner
Through: Mr. Akhand Pratap Singh,
Advocate.

versus

STATE (NCT OF DELHI) Respondent
Through: Mr. Sanjeev Sabharwal, APP for
State with SI Murari Krishan, P.S.
New Friends Colony.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI
(VIA VIDEO CONFERENCING)
MANOJ KUMAR OHRI, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. on behalf of the petitioner seeking setting aside of the order dated 16.08.2021 passed by the learned ACMM, South-East District, Saket Courts, New Delhi in e-FIR No. 4382/2021, whereby the petitioner's application seeking release of Toyota Fortuner Car bearing Registration No: UK-07-DM-0786 was dismissed. The petitioner has also sought release of the aforesaid vehicle.

2. Mr. Akhand Pratap Singh, learned counsel for the petitioner submits that at the behest of the petitioner, a complaint was lodged on 15.02.2021 under Section 379 IPC at e-P.S. New Friends Colony, Delhi regarding theft of his Toyota Fortuner Car bearing Registration No:



UK-07-DM-0786. It is submitted that ~~the said vehicle was stationed in front of Bansal Hospital, New Friends Colony, New Delhi.~~ Learned counsel for the petitioner submits that subsequent thereto, during investigation the aforesaid vehicle was recovered from *Visakhapatnam, Andhra Pradesh* on 25.05.2021. Learned counsel has also placed reliance on the RC of the car to show that the petitioner is the registered owner of the recovered car.

3. Learned counsel for the petitioner further submits that the engine and chasis numbers of the aforementioned vehicle were found to be tampered however other parts including battery and tyres were unchanged. He submits that till date, the vehicle is stationed in the service centre of M/s Galaxy Toyota, Delhi and is lying unused. He further submits that if the vehicle continues to remain unused, the same would result in its complete deterioration. It is also submitted that till date, no third party has claimed ownership rights over the aforesaid vehicle.

Learned counsel for the petitioner, on instructions, submits that the petitioner is ready and willing to give an indemnity bond alongwith an undertaking to the effect that the status of the said vehicle will not be altered or sold during the pendency of the trial without prior permission of the Trial Court.

4. The Status Report has been forwarded through E-mail, which is taken on record. While relying on the Status Report, Mr. Sanjeev Sabharwal, learned APP for the State, confirms that till date, no other claimant has come forward to claim ownership over the aforesaid vehicle. As per the Status Report, the engine and chasis numbers of the recovered vehicle were found to be tampered and on tracing the same, it



has come on record that the said number ~~belongs to another Fortuner Car~~ being registration No. HR-26-DT-0036 stated to be registered in the name of one *Mr. Vinod Kumar Arora*, who had also lodged a theft report against which FIR No. 7594/2021 was registered at P.S. Bharat Nagar, Delhi. Learned APP for the State, on instructions, further submits that *Mr. Vinod Kumar Arora* has not come forward to raise any claim on the recovered vehicle.

5. It is noted that initially vide order dated 14.06.2021, the learned ACMM had directed release of the aforesaid vehicle on *superdari* however, subsequent to which, an application for directions was filed by the Investigating Officer. Thereafter, the Trial Court kept its order dated 14.06.2021 in abeyance and called for a detailed Inspection Report from the car dealer namely M/s Galaxy Toyota. After perusing the said Inspection Report, the Trial Court vide the impugned order dated 16.08.2021 dismissed the application of the petitioner seeking release of the aforesaid car. After considering the Inspection Report, the Trial Court observed as follows:

“...The Court has gone through the report alongwith annexures. It is reported that during vehicle investigation, the below mentioned parts were checked and details were confirmed from the database:

- A. Engine Number;*
- B. Engine Number on Cylinder headcover;*
- C. Fuel Tank Serial Number;*
- D. Knee SRS Airbag Number;*
- E. Front LH Dust Cover;*
- F. Passenger Airbag Number;*
- G. GTS data (Scan tool data)*

It is concluded that by the concerned expert that all the aforesaid parts belong to the engine number 1GDA167342 and VIN No.MBJBA3FS900811837. On being specifically asked, the expert explained that the 'match marks' on the



various parts of the vehicle attached to it for engine number have not been tampered with. It reflects that the original engine in the recovered vehicle was not removed while the other outer body parts may have been changed. It is also confirmed that the chasis number has been tampered with and it is not possible to decipher the original chasis number from the vehicle (and the tampered chasis number has matched with the chasis number of another vehicle of same model registered in West Bengal). ”

6. A perusal of the Status Report would show that prior to the registration of e-FIR No. 4382/2021 on 15.02.2021 regarding theft of the car, the petitioner had replaced the battery and tyres of the vehicle, which on recovery have matched with the invoices dated 02.05.2020 and 11.01.2021 respectively produced by the petitioner.

7. Keeping in view the fact that the value of the car as well as its physical condition will deteriorate, if it continues to remain unused; the fact that the details of the battery and tyres have matched with the invoices produced by the petitioner and also the fact that no other person has claimed ownership of the recovered vehicle till date, it is directed that subject to the final outcome in the trial, the aforesaid recovered Toyota Fortuner Car bearing Registration No: UK-07-DM-0786 be released to the petitioner, on petitioner's furnishing appropriate indemnity bond alongwith an undertaking to the satisfaction of the Trial Court.

8. With the above directions, the petition is disposed of.



9. A copy of this order be communicated electronically forthwith to the concerned Trial Court.

FEBRUARY 15, 2022

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MANOJ KUMAR OHRI, J

Click here to check corrigendum, if any