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19.04.2023
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W.P.A. 9338 of 2023

(Sona Roy vs. State of West Bengal & Ors.)

**Mr. Kishore Dutta
Mr. Debasish Roy
Mr. Sandipan Ganguly
Mr. Sunit Kr. Roy
.... For the Petitioner
Mr. Amal Kr. Sen
Mr. Jaladhi Das
.... For the State**

Heard learned counsels for the parties.

It is contended on behalf of the writ petitioner that she purchased a Hyundai Verna car bearing registration No. WB-06-B-8367 in August, 2015 and the car was duly registered in her name. The petitioner sold out the said vehicle to a dealer of vehicles namely M/s Bagaria Motors Private Limited on 27th October, 2017 in exchange for a new Renault Kwid car which was registered in the petitioner's name having registration No. WB-02-AL-9838. Upon handing over possession of the old vehicle to the dealer, the petitioner intimated the same to the registering authority, Public Vehicles Department, Kolkata, being the 3rd respondent herein, by a letter issued on 31st October, 2017. The delivery note issued in favour of the petitioner by the dealer Bagaria Motors Private Limited demonstrates that the vehicle was delivered to the dealer on 27th October,

2017. Since the petitioner continued to receive notices of traffic violation cases even after sale of the vehicle, she wrote to the dealer as well as police authorities intimating that she was no longer the owner of the said vehicle.

The petitioner complains that she received a summons issued by the Court of the learned Exclusive Excise Spl. Court No. II, Buxar, Bihar in connection with a criminal case being case No. 214(O) 2019 under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018 arising out of Government Official COMP Police Station case No. 214 of 2019 wherein the petitioner was directed to appear before the said learned Court on 18th March, 2023 to answer the charges slapped on her.

The petitioner has prayed for a writ in the nature of mandamus commanding the third respondent to correct the records regarding transfer of ownership of the vehicle bearing No. WB-06-B-8367 by deleting the name of the petitioner as registered owner of the said car.

Placing reliance on Section 50 of the Motor Vehicles Act, 1988, learned counsel for the respondents submits that though intimation for transfer of ownership of a vehicle shall be given to the authority by the transferor, it is for the transferee to apply for change of ownership of the vehicle along with

prescribed fees. The registering authority is empowered to make such transfer only on the application made by the transferee and not the transferor.

Learned counsel for the respondents further submits that the vehicle has been reregistered against an auction in the name of one Binoy Kumar before the registering authority at Buxar, Bihar on 31st August, 2021.

Learned counsel has placed reliance on a judgment of a co-ordinate Bench of this Court passed on 1st July, 2020 in W.P. 4462(W) of 2019 on a similar issue wherein the learned Court observed that since the petitioners therein successfully discharged their onus establishing cessation of their title to the vehicle in issue on the basis of *bona fide* transfer, they shall be entitled to a declaration ceasing to treat them as registered owners of the vehicle in issue. The Court restrained the respondents therein from inflicting, imposing and/or realising on and from the writ petitioners any penalty/levy/charge/fee connected to the vehicles in issue in the writ petition.

The ratio of the said judgment is applicable in the facts and circumstances of the present case.

Since it is not in dispute that the vehicle in question was sold out by the petitioner to the dealer on 27th October, 2017 and possession of the vehicle was handed over on the same date, this Court is inclined to

hold that the petitioner shall be entitled to a declaration to the effect that she has ceased to be the registered owner of the vehicle in question from the date of sale/handing over possession of the vehicle, that is, on and from 27th October, 2017.

As a corollary, no coercive steps be taken against the petitioner in connection with any violation that may have occurred in respect of the vehicle in question on and from the said date.

With the above observations and directions, the writ petition is disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)