

May 4, 2023  
AD – 38  
Ct. 34  
SG

*CRR 1319 of 2021*  
*with*  
*CRAN 1 of 2021*  
*CRAN 2 of 2023*

*Golam Murtuja Sk. Alias Golam Mortaza*  
*-versus-*  
*The State of West Bengal and another*

In Re. An application under Section 482 of the  
Code of Criminal Procedure, 1973.

Mr. Prosenjit Mukherjee  
Mr. Arghya Kamal Das  
... for the petitioner.

Mr. Swapan Banerjee  
Mr. Suman De  
... for the State.

Ms. Sima Ghosh  
... for the opposite party No.2.

Mr. Swapan Banerjee, learned advocate on behalf of  
the State submits a report which reflects that the present  
petitioner viz Golam Murtuja is the owner of the said  
tractor.

The foundation of the criminal case is on the basis of  
an agreement on a Rs.20/- stamp paper. The criminal case  
has also been initiated from an inspiration of using the said  
document. The subject matter of adjudication is in respect  
of interim custody of the tractor concerned during the  
pendency of the criminal case.

It has been submitted by learned advocate for opposite party No.2 that there is an existing family dispute and in spite of accepting money the present accused/petitioner is claiming the tractor.

I do not find any reason as to why the registration of a vehicle will continue in the name of a person who has sold out the vehicle. If any untoward incident happened while using the said vehicle, the government authorities will not be in a position to trace out as to who would be responsible for commission of such offence while using or plying such vehicle or tractor. The purpose of the criminal court is not to decide the title to hand over the interim custody in the circumstances.

Having considered the factor which weighed learned Judicial Magistrate, First Court, Rampurhat, I am of the opinion that there are substantial grounds for the petitioner to be aggrieved.

The order dated 31.03.2021 passed by learned Judicial Magistrate, First Court, Rampurhat as such is set aside.

Learned Judicial Magistrate, First Court, Rampurhat is directed to reconsider the application for return of the seized tractor by allowing both the parties to present their case for return of seized tractor/vehicle.

Learned Magistrate would take into consideration the issues which have been dealt with in the previous

paragraphs. Both the parties would be present before the learned Judicial Magistrate, First Court, Rampurhat on 17<sup>th</sup> May, 2023. The report which was placed before this Court would be placed before Judicial Magistrate, First Court, Rampurhat.

Judicial Magistrate as directed above would pass order afresh within a fortnight from the said date.

With the aforesaid observations, CRR 1319 of 2021 is disposed of.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**( Tirthankar Ghosh, J. )**

