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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 03.03.2023

+ CRL.M.C. 747/2020

RAM CHANDER PRASAD

..... Petitioner

Through: Ms. Deepali Aggarwal,
Advocate with petitioner.

Versus

STATE

..... Respondent

Through: Mr. Manoj Pant, APP for the
State with Inspector Harkesh
Meena, P.S. Tilak Nagar.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed by petitioner seeking quashing of FIR bearing no. 439/2004, registered at Police Station Tilak Nagar, for the offence punishable under Section 420 of the Indian Penal Code, 1860 ('IPC').

2. Present FIR was registered on the basis of complaint filed by learned Trial Court on the ground that on the date of filing the application dated 16.04.2003 for release of vehicle DLI-IRE-1673 on superdari by the present petitioner in relation to the FIR bearing no. 99/2003, for the offence punishable under Section 394 of IPC, Police Station Dwarka. Though the applicant was owner of the vehicle in question, however, he was not the registered owner. The complainant,

therefore, got FIR registered on the premise that though the applicant herein was not the registered owner of the vehicle in question, he had projected himself to be the registered owner. The record was perused. The record reveals that when the application for release of vehicle in question was moved by the present petitioner, though he was not registered owner of the vehicle, he was the owner of the vehicle since the registered owner had already transferred the possession of the vehicle and had sold the vehicle to the petitioner herein in terms of Section 4 of Sale of Goods Act. Thus, by virtue of Section 4 of Sale of Goods Act, he had become owner of the vehicle in question. It is not disputed that the applicant had already made payment of consideration for buying the vehicle in question and the registered owner of the vehicle had already received the entire payment and had also handed over the possession of the vehicle in question to the present applicant. Therefore, in fact and in practicality, the owner of the vehicle on 16.04.2003 was the present petitioner herein. It is also noted that the registered owner of the vehicle was the original owner of the vehicle in question. A perusal of the application for superdari which was moved before the learned Trial Court, which became ground for registration of FIR does not say that the applicant is the registered owner of the vehicle in question and only says that he is owner of the vehicle in question and in that much he did not misrepresent any fact to the Court so as to induce to the Court to reach a conclusion that the Court would not have otherwise reached to.

3. The complaint pertains to the year 2003 by the learned Magistrate. In the meanwhile, the registration of the present vehicle

was also transferred in the name of the present applicant by the original owner. They have also moved an application for compounding of the offence before the learned Trial Court since it was never in dispute or question between the original owner and the present applicant that the vehicle in question had been sold on the date of filing of the complaint to the present petitioner. The present petitioner being unaware of the distinction between a registered owner and owner as a layman who was not conversant with the legal intricacies in this regard, had moved application in question.

4. Considering the same and also considering that he never posed himself to be the registered owner and in fact was in possession of the vehicle in question and had also made the entire payment towards the sale of the vehicle to him by the original owner, in this, Court's opinion the ingredients of Section 420 of IPC itself are not fulfilled.

5. Considering the same, this Court holds that necessary ingredients of Section 420 of IPC are not made out and therefore is inclined to quash the FIR in question.

6. Accordingly, the present petition stands disposed of in above terms.

7. Bail bond stands cancelled and the surety stands discharged.

8. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 3, 2023/kss