



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1781 OF 2024

1. Bhushan S/o Gowardhan Bihani,
Age : 36 Years, Occ. Business,
R/o. Moti Mahal, Maheshnagar,
Ahmednagar. ..Petitioner

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
MIDC and Tofkhana Police Station,
Dist. Ahmednagar
2. Dilip Mansukhlal Gandhi,
Age : Major, Occ. Ex member of Parliament,
R/o. Devndra Bunglow,
Acharya Anadrushiji Maharaj Marg,
Ahmednagar.
(Informant in Cr. No. 91 of 2018 MIDC Police
Station, Ahmednagar)
3. Avinash Annasaheb Dalvi,
Age : Major, Occ. Government Service,
R/o. RTO Office, Ahmednagar
(Informant in Cr. No. I-172 of 2018,
Tophkhana Police Station, Ahmednagar) .. Respondents

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Mr. Sunny Khivansar, Advocate for the Petitioner
Mr. A. M. Phule, A.P.P for Respondent No.1 State

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CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ

DATED : DECEMBER 11, 2024

JUDGMENT (PER ROHIT W. JOSHI, J) :-

1. The present petition is filed under Article 226 of the

Constitution of India, in order to challenge FIR No. I-172 of 2018 registered against the petitioner with Topkhana Police Station, Ahmednagar on 04.04.2018 for the offences punishable under Section 420, 467, 468 and 471 read with Section 34 of the Indian Penal Code. Respondent No.3 is the informant. He was working as Deputy Regional Transport Officer, Ahmednagar at the relevant time.

2. The contention of the petitioner is that with respect to the same transaction, earlier another First Information Report was registered against him for the offences punishable under Sections 406,420,467,468,471,120-B read with Section 34 of the Indian Penal Code on 04.03.2018 with MIDC Police Station, Ahmednagar vide FIR No. I-91 of 2018. He states that apart from him, Anurag Malhotra, Govardhan Motilal Bihani, Abhishek Govardhan Bihani, Sushil Ostawal and Ajay Rasal are also added as accused in the First Information Report dated 04.03.2018 registered with M.I.D,C. Police Station, Ahmednagar.

3. The sole contention raised by the petitioner while assailing the impugned First Information Report is that, law does not permit registration of second First Information Report with respect to one offence. Perusal of all the grounds in the petition will indicate that this is the sole ground of challenge. In ground No.8 a contention is raised that contents of the First Information Report are vague, false

and baseless and do not constitute any offence. This is a general ground which was also not pressed during the course of hearing. Thus, the sole issue that arises for consideration is whether the impugned First Information Report could have been registered against the petitioner in view of earlier First Information Report.

4. Shri. Dilip Mansuklal Gandhi has lodged First Information Report vide Crime No. I-91 of 2018, on 04.03.2018 against the petitioner and five individuals named above, for the offences punishable under Sections 406,420,467,468,471,120-B read with Section 34 of the Indian Penal Code. The allegations in the First Information Report lodged by Shri. Dilip Gandhi are that on 12.01.2015, he had purchased a Ford Endeavor car from Salasar Wheels Pvt. Ltd MIDC Ahmednagar, he has stated that he had been to the showroom of Salasar Wheels Pvt. Ltd on 24.12.2014 for selecting a vehicle, he had selected the Ford ENDEAVOR car, he alleges that the persons arrayed as accused in the First Information Report had represented to him that the year of manufacture of the car was 2015 and it was latest model of Ford ENDEAVOR car and he has further stated that since he had problems with respect to performance of the vehicle, he had sent the vehicle for servicing to another dealer of Ford Motors and then it was revealed that the year of manufacture of the car purchased by him was 2012 and not 2015 as represented to him. Based on this, the aforesaid FIR bearing No. I-91 of 2018 came to be

registered on 04.03.2018.

5. The impugned First Information Report is lodged by the Deputy Regional Transport Officer Ahmednagar on 04.04.2018. The allegations in the First Information Report are that the petitioner had mentioned the date of manufacture of the car in Form No. 21 as 10.01.2015 at the time of registration of the vehicle. According to him, inquiry with the manufacturer reveals that the car was initially sold by the manufacturer to M/s. Sequel Motors Private Limited and not to Salasar Wheels Pvt. Ltd. He further states that the year of manufacture as informed by the manufacturer is 2012 and not 2015. The allegation is that by making a false representation, incorrect entries have been recorded in the record of Regional Transport Office (hereinafter referred to as "RTO" for brevity) with respect of the said car. In the subsequent FIR which is impugned in the present petition, the petitioner is the only person added as an accused.

6. The contention of the learned Advocate for the petitioner is that both the First Information Reports are pertaining to the same transaction, the allegations in both the First Information Reports are same and therefore registration of subsequent First Information Report is impermissible in law. He states that Section 154 of the Code of Criminal Procedure does not permit registration of second First Information Report with respect to the same offense. He has placed

reliance on the judgment of the Hon'ble Supreme Court in the matter of **Babubhai Vs. The State of Gujarat and others reported in (2010) 12 Supreme Court 254** in support of his contention. He further elaborates the submission by stating that the petitioner will have to face two separate prosecutions with respect to the same matter which may give rise to contrary findings and contrary judgments, which will result in travesty of the justice. In view of the submissions made, he prays that the impugned First Information Report, which is subsequent on in point of time, needs to be quashed.

7. Per contra, Shri. A. M. Phule, the learned A.P.P. representing the respondents submits that the contents of both the First Information Reports are different. The allegations in the earlier First Information Report which is lodged by the purchaser, are relating to misrepresentation and deception amounting to cheating within the meaning of Sections 415 and 420 of the Indian Penal Code. The grievance of the informant in the First Information Report is that by misleading him with respect to year of manufacture of the vehicle, a used vehicle was sold to him representing it to be a new vehicle and accordingly he was cheated. The learned A.P.P. submits that the offense of cheating with respect to which the first/earlier First Information Report is lodged, was completed upon the sale of vehicle by Salasar Motors to the purchaser/informant in the first First Information Report. He states that the registration of the vehicle is only a

consequent steps which takes place after the sale of vehicle. According to him, the sale transaction was completed before registration of the vehicle. In support of his contention he places reliance upon judgment of the Hon'ble Supreme Court in the matter of *Dr. T.V Jose Vs. Chacko P.M. reported in (2001) 8 SCC 748*. The said judgment holds that a transaction pertaining to sale of motor vehicle is complete between the seller and purchaser upon payment of consideration and delivery of the vehicle. R.T.O. registration is a subsequent act that is done after the sale transaction. It is further held that with respect to third party claims, the registered owner will be liable although the sale transaction is completed. He therefore, submits that both the offences are pertaining to separate acts, the first being cheating of purchaser and the second being falsification of RTO record. He sums up the submissions stating that since both the offences are different, separate First Information Reports can be registered.

8. Having heard the respective learned Advocates and upon perusal of the record, it is apparent that the grievance of the informant in the first First Information Report, who is the purchaser of the car, is that he was cheated during the course of sale transaction by making misrepresentation with respect to the year of manufacture of the car as also false representation that the car being sold was a new car when infact it was a used car and accordingly he was made to

part with additional sale consideration for the vehicle. The allegation in the First Information Report is that the vehicle which was manufactured in the year 2012, was sold representing that it was a model of 2015. Although there is reference to provisions of the IPC regarding falsification of the record etc. in the first First Information Report, the principal allegation pertains to offence of cheating. The subsequent FIR which is impugned in the present petition, pertains to registration of the vehicle in the office of RTO, which is a subsequent event. The principal allegation in the subsequent First Information report is that by providing false information, incorrect entries have been got recorded with respect to particulars of vehicle in the records of RTO. The allegation of cheating and falsification of the record in the subsequent FIR is that the office of RTO, Ahmednagar was mislead with respect to the year of manufacture of the vehicle while registration of the vehicle.

9. It is, thus, clear that the allegations in both the First Information Reports are different. The core issue in the First Information Report is cheating and that in the second First Information Report is restricted to entries recorded in the records of the RTO. In the first offence, the purchaser alleges that he was cheated while in the second FIR which is impugned in the present petition, the RTO authority alleges that they were mislead into taking incorrect entries in their records. Since both the offences are qualitatively different lodged by two separate

persons explaining how they or the State has been cheated, separate First Information Reports can be registered. There is absolutely no legal embargo. We do not find any infirmity in registration of the impugned FIR. We are of the considered opinion that, the impugned FIR cannot be quashed simply on account of being lodged subsequent to registration of the First Information Report lodged by the purchaser, since allegations in the both the FIR are qualitatively different.

10. The apprehension of the learned Advocate for the petitioner that petitioner will have to face two separate trials which may result in contradictory or self conflicting findings and orders, can be taken care of by taking recourse to appropriate provisions under the Code of Criminal Procedure for transfer of cases in one Court. It will be open for the petitioner to make appropriate application under the provisions of Chapter XXXI of the Code of Criminal Procedure. We may mention that both First Information Reports are registered with two police stations, within the same district i.e. District Ahmednagar. In view of the aforesaid, we are of the considered opinion that petition is liable to be dismissed and it is accordingly dismissed.

(ROHIT W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

Y.S. Kulkarni