



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
WRIT PETITION NO.2596 OF 2023**

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| Omprakash Lalmani Singh           | ... | Petitioner  |
| versus                            |     |             |
| The State of Maharashtra and Ors. | ... | Respondents |

Mr. Sanjeev B. Deore i/by Mr. Suchita Pawar for Petitioner.  
Mr. S.R.Aagarkar, APP for State.  
Mr. Shyamrishi Pathak for Respondent No.2.  
Mr. Vishal Tambat for Respondent No.3 through VC.  
Mr. Rahul Mokate, API Deonar Police Station present.

**CORAM: N.J.JAMADAR, J.**

**DATE : 1 FEBRUARY 2024**

**P.C.**

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to a common order dated 17 June 2023 passed by the learned Metropolitan Magistrate in Criminal Misc. Application No.188 of 2023 preferred by the Petitioner and the Criminal Misc. Application No.790 of 2023 preferred by the Respondent No.2, whereby the application preferred by the Petitioner and the application of Respondent No.2 came to be allowed thereby directing the police to handover the muddemal property i.e. Innova Car bearing Registration No.MH-03/DA-2713 to the Respondent No.2 upon furnishing the indemnity, during the pendency of trial.
3. Petitioner claimed that the Respondent No.2 had purchased the said car

by availing finance from Respondent No.3 bank in the year 2018. Respondent No.2 committed default in repayment and, therefore, an action was initiated by Respondent No.3 Bank and the vehicle came to be repossessed. Eventually, it is the claim of the Petitioner that the said vehicle found its way to M/s. A to Z Enterprises, a dealer in used cars. The Petitioner had purchased the car bona fide from M/s. A to Z Enterprises, by parting with valuable consideration. Possession of the car was delivered to the Petitioner. However, on 14 December 2023, the car was stolen away from the premises of Universal Majestic Building, without his consent. Thus, a report was lodged bearing C.R.No.716 of 2022 with Deonar Police Station.

4. The learned Magistrate was of the view that Respondent No.2 could substantiate the claim of being in possession and prima facie owner of the said car by placing on record the registration certificate. In contrast, the Petitioner could not produce any documents to substantiate his claim.

5. Learned Counsel for the Petitioner submitted that the learned Magistrate committed an error in directing interim custody of the property on the basis of the registration certificate. Reliance was sought to be placed on the decision of this Court in the case of **Prakash Tarachand Sakhre V/s. Ashok Pundloikrao Wajge and Anr.**<sup>1</sup>. In the said case, this Court held that change of registration under Section 31 of the Motor Vehicles Act, 1939 is not a condition precedent for transfer of

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1 2001 Cri.L.J. 3024

ownership of the vehicle, but that section imposes a condition on both the transferor and transferee to notify transfer, but it does not invalidate transfer as such for non-compliance of that section as transfer of ownership is governed by the Sales of Goods Act and takes place from the date of sale and not from the date on which transferee's name is recorded.

6. I have perused the aforesaid judgment. It was delivered in a completely distinct fact situation. Evidently, there was privity of contract between the applicant and the non-applicant No.1 therein. In the case at hand, the Petitioner does not claim that there was any privity of contract between the Petitioner and Respondent No.2. It is the stated case of the Petitioner that the Petitioner had entered into a transaction with M/s. A to Z Enterprises to purchase the said car. There is no material to indicate as to how M/s. A to Z Enterprises came in possession of the subject car. Prima facie, the Respondent No.2 is the registered owner of the subject car. Prima facie, there was no transaction between Respondent No.2 and M/s. A to Z enterprises. In the circumstances, the aforesaid submission canvassed on behalf of the Petitioner does not advance the cause of the Petitioner.

7. It is imperative to note that the Respondent No.3 Bank has filed an affidavit and claimed an independent right to possess the said car. Learned Counsel for Respondent No.3 categorically submits that the Respondent No.3 did not repossess the car on account of default in payment of the amount, instead it had initiated

arbitration proceedings in which an award to deliver possession of the said car came to be passed.

8. In the aforesaid view of the matter, the learned Magistrate committed no error in directing interim custody of the said car to be delivered to the Respondent No.2, who prima facie appears to be registered owner of the said car.

9. Needless to clarify that the Petitioner can initiate appropriate proceedings to establish title to the said car.

10. With the aforesaid clarification, the Writ Petition stands dismissed.

**( N.J.JAMADAR, J. )**