

IN THE HIGHCOURT OF MADHYA PRADESH

AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

MCRC No.49673 OF 2023

BETWEEN:-

**LALIT KUMAR VERMA S/O SHRI SURESH VERMA,
AGED 37 YEARS, OCCUPATION PRIVATE JOB R/O 262,
BARFANI NAGAR, M.R. 9 ROAD INDORE (MADHYA
PRADESH)**

.....APPLICANT

(BY SHRI NITIN GOYAL- ADVOCATE)

AND

**STATE OF MADHYA PRADESH THROUGH POLICE
STATION CITY KOTWALI, DISTRICT SHIVPURI
(MADHYA PRADESH)**

.....RESPONDENT

(BY SHRI RAJENDRA SINGH YADAV- PUBIC PROSECUTOR)

Reserved on : 22.01.2024

Pronounced on : 25.01.2024

***This petition having been heard and reserved for judgment,
coming on for pronouncement this day, Justice Sanjeev S Kalgaonkar
pronounced the following:***

ORDER

This petition under Section 482 of Code of Criminal Procedure has been filed assailing the order dated 08.09.2023 passed by IVth Additional Sessions Judge, Shivpuri in Criminal Revision No.84/2023 whereby the

revision petition challenging the order dated 07.08.2023 passed by Chief Judicial Magistrate, Shivpuri in MJCR No.1171/2023 was affirmed and both the Courts declined to release the Vehicle No.MP07-CG-0036.

The petition *inter alia* states as under:-

- (i) Petitioner is a registered owner of Car MG Gloster Registration No.MP07-CG-0036.
- (ii) The car was seized by Police Station Kotwali, Shivpuri in Crime No.429/2023 in relation to offence punishable under Sections 420, 409 and 120(B) of IPC against Shailendra Parmar. On completion of investigation, final report has been filed by Police Station Kotwali, Shivpuri.
- (iii) The petitioner has filed an application under Sections 451 and 457 of CrPC before the Court of Chief Judicial Magistrate, Shivpuri which was dismissed *vide* order dated 07.08.2023 on the ground that the proceedings of confiscation has been proposed with regard to the vehicle and the vehicle in question was purchased from the proceeds of crime.
- (iv) Petitioner approached the Sessions Court by filing a revision under Sections 397 and 399 of CrPC assailing the order dated 07.08.2023. Learned IVth Additional Sessions Judge, Shivpuri in Criminal Revision No.84/2023 rejected the revision and affirmed the order of learned Chief

Judicial Magistrate *vide* order dated 08.09.2023.

This petition under Section 482 of CrPC invoking inherent jurisdiction of this Court is filed on the following grounds:-

- (i) The orders passed by learned Chief Judicial Magistrate, Shivpuri and learned Additional Sessions Judge, Shivpuri are bad in law as they are passed without considering the facts and circumstances of the case.
- (ii) Both the Courts did not consider the documents filed by the petitioner that he is *bona fide* purchaser of the vehicle through online car purchase portal (CARS 24). The vehicle was registered for sale on the portal CARS 24. On 08.05.2023, the petitioner purchased the vehicle. On 02.06.2023, petitioner paid the amount of purchase to CARS 24. Thereafter, the car was registered in his name.
- (iii) Merely because the car is proposed to be confiscated is not sufficient to deny interim custody to the applicant.

On these grounds, it is requested that the impugned orders dated 08.09.2023 and 07.08.2023 be set aside and the vehicle be released to the petitioner.

Learned counsel for the petitioner contends that petitioner is a *bone fide* purchaser of the vehicle through used car sale portal CARS 24.

Referring to the documents relating to purchase of vehicle, learned counsel submits that applicant has purchased the car in due compliance with the formalities and by paying an amount of Rs.31,10,535/- to CARS 24. Thereafter, the vehicle was transferred and registered in the name of petitioner Lalit Kumar Verma by concerned Registration Authority and Indian Union Vehicle Registration Certificate was issued in favour of petitioner on 28.07.2023. Petitioner being *bone fide* purchaser of vehicle for consideration cannot be denied custody of the vehicle until confiscation proceedings are conducted in compliance with the procedure and law.

Per contra, learned counsel for the State submits that Shailendra Parmar in association with Gagan Vajpayee, Rajeev Mishra, Sadhna Chauhan and Lata Dubey has criminally misappropriated public money in the sum of Rs.93,56,000/- of Government Sambhal Rashi Yojana by cheating and forgery. Shailendra Parmar had purchased MG Gloster vehicle worth Rs.45,00,000/- from the proceeds of the crime, therefore, the vehicle Engine No M920C036236, Chasis No MZJD64JB4H00215 and Registration No MP07-CG-0036 was recovered and seized at the instance of accused Shailednra Parmar from the showroom of CARS 24 on 24.06.2023. On completion of investigation, final report was filed

against the accused. This vehicle in question is proposed for confiscation. The Investigation Officer has proposed confiscation of vehicle *vide* letter dated 05.07.2023. Learned counsel submits that since the confiscation proceedings is underway, the vehicle may not be released.

Heard both the parties and perused the record.

Learned Chief Judicial Magistrate, Shivpuri rejected the application for release of vehicle under Sections 451 and 457 of CrPC on the ground that the vehicle was purchased by Shailednra Parmar out of proceeds of crime and confiscation proceeding is proposed with regard to vehicle. Learned Chief Judicial Magistrate did not consider the contentions of applicant that he is *bona fide* purchaser of the vehicle.

Learned Revisional Court also did not consider the contentions and documents submitted by petitioner Lalit Kumar Verma with regard to his entitlement as *bona fide* purchaser of the vehicle. The finding of Revisional Court appears to be cursory and superficial. The records shows that both the Courts below have committed manifest illegality and impropriety in rejecting the application without considering the contentions of the applicant and verification of documents submitted by applicant with regard to his entitlement as *bona fide* purchaser for consideration of the vehicle. Therefore, interference in exercise of

inherent jurisdiction is needed in this matter to prevent manifest injustice.

In the light of aforementioned aspects of the matter, the order dated 07.08.2023 of the Chief Judicial Magistrate, Shivpuri and 08.09.2023 of Learned IVth Additional Sessions Judge, Shivpuri are set aside and the matter is relegated to Chief Judicial Magistrate, Shivpuri with the direction to consider the application after due verification of the documents submitted by petitioner Lalit Kumar Verma regarding purchase of vehicle for consideration and pass an order in the light of law with regard to custody of vehicle pending confiscation proceedings.

The petition filed under Section 482 of Cr.P.C. is **disposed of** accordingly.

(SANJEEV S KALGAONKAR)
JUDGE

Avi/vijay