

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1870 OF 2019**

Mahesh Mehervan Havewalla .. Petitioner

Vs.

The State of Maharashtra .. Respondents

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Mr. Tapan Thatte for the petitioner.

Dr. F.R. Shaikh, A.P.P. for the State.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 02nd AUGUST, 2019.

P.C:-

1. The present criminal writ petition is filed by the petitioner being aggrieved by filing of the criminal case against him vide RCC No.1628 of 2019 based on the FIR lodged by one Abasahib Tanaji Mohite, a constable attached with the traffic department.

2. With the assistance of the learned counsel for the petitioner, we have perused the FIR. The FIR alleges that on 07/02/2019, the petitioner was driving the Sunny Nissan Car with a false number plate and when he was confronted by the police personnel of traffic department, he had admitted

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that he had procured the same car from the Customs Department and the car was not registered but he was using the registration number of his old I-10 Car viz. MH 48-A 1639. The allegation, in short, in the FIR is that without obtaining the registration of the newly purchased Sunny Nissan Car, the petitioner has affixed number plate of his old car which was already registered. Based on this allegation, the offences punishable under Section 420 and 465 of the IPC were invoked and, after investigation, the charge-sheet was filed before the Court of Judicial Magistrate, First Class, Thane, pursuant to which criminal case was registered.

3. We have heard Dr. Shaikh, learned A.P.P. appearing for the State. He states that the offences of cheating and forgery are registered under the relevant provisions of the IPC since the petitioner without obtaining registration of the vehicle had forged the number plate and used the same as if the new car is registered. By referring to the M.V. Act 1988, he submitted that every vehicle requires registration in terms of Section 39 of the said enactment and no person shall drive any motor vehicle in any public place or in any other place unless the vehicle is registered in accordance with Chapter IV and the registration is obtained. According to Dr. Shaikh, the petitioner has admitted that he has not registered his vehicle and not only that he had to put to use the number plate of his old car and indulged himself in forgery as contemplated under Section 463 of the IPC and, therefore, he has rightly been charged under Section 465 of the IPC.

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4. We have perused the FIR and the relevant sections of the IPC under which the present petitioner has been charged. It is not in dispute and admitted by the petitioner himself that he was driving the vehicle with the number plate of his old car and he has admitted that he has not obtained the registration for the Sunny Nissan car. Running a vehicle in public place without registration is an offence under the purview of the Motor Vehicle Act and, in particular, Section 192 of the said Act which makes an act of using the vehicle without registration punishable with a fine which may extend to Rs.5,000/-. However, we are not ready to accept the contention of Dr. Shaikh that the petitioner had indulged himself into an act of forgery since the definition of forgery as contained in Section 463 of the IPC makes abundantly clear that basic elements of forgery are making of a false document and such making should be with an intention as specified in Section 463 of the IPC to cause damage or injury to the public or to any person or to support any claim or title, or cause any person to part with property or, or to enter into any express or implied contract, or for commission of fraud.

5. We have also perused the definition of the terms 'document' which has been assigned a definite meaning under the IPC. To an extent, we are in agreement with Dr. Shaikh since the document under Section 29 of the IPC denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter. However, the necessary

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ingredients of making a false document under Section 464 of the IPC is that the document must be forged with an intention to believe that such document or part of the document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed or affixed.

6. It is not the case of the prosecution that the number plate of the registration was fake or made fictitiously or that it was not in existence. On the other hand, the petitioner had already obtained the registration number in respect of his other car by following the procedure prescribed under the Motor Vehicle Act and he had also affixed the said number plate on the Sunny Nissan Car which he had procured from the Customs Department. Undisputably, in terms of Section 192 of the Motor Vehicles Act, for running a vehicle without registration, the petitioner may be levied a penalty. Similarly, the act of cheating with which the petitioner is charged, also not made out against the petitioner since the acts do not fall and satisfy the ingredients of either of these sections. In such circumstances, with liberty to the respondent Authorities to proceed against the petitioner under Section 192 of the Motor Vehicles Act, we quash and set aside the RCC No.1628 of 2019 pending before the Judicial Magistrate, First Class, Thane, and allow the petition in terms of prayer clause (a).

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7. It is informed by learned counsel for the petitioner that the said Sunny Nissan car has been seized by the respondent-Authorities. Needless to say that since we have quashed and set aside the criminal case, the said vehicle is directed to be returned to the petitioner forthwith. We also expect that the petitioner to take immediate steps for registration of the said vehicle before running it on the road.

8. Writ petition is disposed of in the aforestated terms.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)

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