



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**

**DATED THIS THE 18<sup>TH</sup> DAY OF JULY, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE V.SRISHANANDA**

**CRIMINAL PETITION NO. 100386 OF 2017**

**BETWEEN:**

SHRI. AVINASH HARIBA ALAVE,  
AGE: 27 YEARS, OCC: AGRICULTURE,  
R/O: BATAKANAGALE, TAL: GADHINGLAJ,  
DIST: KOLAHAPUR, MAHARASHTRA STATE.

...PETITIONER

(BY SRI. G.B. NAIK, AND  
SMT. P.G. NAIK, ADVOCATES)

**AND:**

1. THE STATE  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR,  
DHARWAD BENCH, DHARWAD.  
(KAKATI POLICE, DIST BELAGAVI)
2. SHRI. SHASHIKANT SHOMAGOUDA PATIL,  
AGE: 40 YEARS, OCC: PRIVATE SERVICE,  
R/O: KILLA ROAD, KAKATI,  
TAL AND DIST: BELAGAVI.
3. SRI. RAJESH LAL CHAND ISRAIN,  
AGE: 51 YEARS, OCC: PRIVATE SERVICE,  
R/O: F.NO.D-601, 6TH FLOOR,  
P.NO.7-A, A.NO.19/A NERAL NAVI MUMBAI,  
MAHARASTRA.

...RESPONDENTS

(BY SMT. GIRIJA S. HIREMATH, HCGP FOR R1;  
SRI. S.N. PATTANSHETTI, ADVOCATE FOR R2;  
SRI. SANJAY S. KATAGERI, ADVOCATE FOR R3)





THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., SEEKING THAT THE CHARGE SHEET FILED IN KAKATI POLICE STATION CRIME NO. 150 OF 2015 BY THE KAKATI POLICE FOR OFFENCES UNDER SECTION 279, 337, 338, 304-A IPC READ WITH SECTION 134 , READ WITH SECTION 187, 146, READ WITH 196 AND READ WITH 181 OF M.V. ACT AND ORDER DATED 15.11.2016 PASSED IN C.C.NO. 1069 OF 2016 BY THE HON'BLE JMFC VI, BELAGAVI REGARDING TAKING CONGNIZANCE AND ISSUING SUMMONS TO THE PETITIONR-ACCUSED NO. 1 BE KINDLY QUASHED.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

Heard Smt.P.G.Naik, learned counsel for the petitioner, Sri.S.N.Pattanshetti, Sri.Sanjay S Katageri and learned High Court Government Pleader for the respondents.

2. The present petition is filed under Section 482 of Cr.P.C. with the following prayer :-

*"The charge sheet filed in Kakati Police Station Crime No. 150 of 2015 by the Kakati Police for offences under Sections 279, 337, 338, 304-A IPC read with Section 134, read with Sections 187, 146, read with 196 and read with 181 of M.V. Act*



*and order dated 15.11.2016 passed in C.C.No. 1069 of 2016 by the Hon'ble JMFC VI, Belagavi regarding taking cognizance and issuing summons to the petitioner-accused No. 1 be kindly quashed."*

3. Brief facts of the case are as under:

A complaint came to be lodged by Shashikanth Shomagouda Patil with Kakati police station on 15.05.2015 which was registered in Crime No.150/2015 for the offences punishable under Sections 279, 337, 338, 304-A of IPC and Sections 134 and 187 of Motor Vehicles Act, 1988.

4. Gist of the complaint averments reveal that car bearing No.MH-06/T-7925 was proceeding from Belagavi towards Kakati in a rash and negligent manner endangering the human life and dashed against the goods vehicle bearing No.KA-49-924 and thereafter dashed against a motorcycle which was proceeding in front of the said TATA Ace vehicle and whereby the inmates of TATA Ace vehicle and also the rider of the



motorcycle sustained grievous injuries. Police after registering the case investigated the matter and filed charge sheet against the petitioner herein.

5. The learned trial Magistrate took cognizance of the offences and thereafter issued process.

6. The same is under challenge by the petitioner who has been arraigned as accused on the ground that he was not the owner of the vehicle as on the date of the accident and therefore proceeding against the petitioner is impermissible in law resulting in abuse of process of court and sought for quashing of entire criminal proceedings as against the petitioner is concerned.

7. Per contra, learned High Court Government Pleader supports filing of charge sheet and so also Sri.Sanjay S Katageri, who represents the erstwhile owner of the car.



8. Admittedly, as on the date of the accident, vehicle stands in the name of second respondent.

9. It is the case of Sri.Sanjay S Katageri that he has sold the vehicle in favour of the petitioner but the petitioner failed to transfer his name in the relevant registers maintained by the Regional Transport Office.

10. It is now settled principle of law that mere signing form No.29 and giving no-objection certificate would not automatically transfer ownership of the vehicle unless the same is entered in the books of Regional Transport Office. In this regard gainfully this Court places reliance on the principles of law enunciated in the case of ***Naveen Kumar vs. Vijay Kumar and Others*** reported in ***AIR 2018 SC 983***.



11. In fact this Court had an occasion to find out the relevant provisions with regard to transfer of vehicle in MFA No.23935/2009 disposed of on 19.06.2020. In MFA No.23935/2009, this Court has held as under:

*"15. In order to appreciate the grounds urged by the learned counsel for appellant, it is necessary for this Court to refer statutory provisions governing transfer of a Motor Vehicle. Section 50 of the M. V. Act deals with the transfer of the ownership of the motor vehicle. For ready reference, Section 50 of the M.V. Act is culled out hereunder.*

***"50. Transfer of ownership.—***

*(1) Where the ownership of any motor vehicle registered under this Chapter is transferred,—*

*(a) the transferor shall,—*

*(i) in the case of a vehicle registered within the same State, within fourteen days of the transfer, report the fact of transfer, in such form with such documents and in such manner, as may be prescribed by the Central Government to the registering authority within whose jurisdiction the transfer is to be effected and shall simultaneously send a copy of the said report to the transferee; and*

*(ii) in the case of a vehicle registered outside the State, within forty-five days of the transfer, forward to the registering authority referred to in sub-clause (i)—*



*(A) the no objection certificate obtained under section 48; or*

*(B) in a case where no such certificate has been obtained,—*

*(I) the receipt obtained under sub-section (2) of section 48; or*

*(II) the postal acknowledgment received by the transferee if he has sent an application in this behalf by registered post acknowledgment due to the registering authority referred to in section 48, together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted;*

*(b) the transferee shall, within thirty days of the transfer, report the transfer to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward the certificate of registration to that registering authority together with the prescribed fee and a copy of the report received by him from the transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration.*

*(2) Where—*

*(a) the person in whose name a motor vehicle stands registered dies, or*

*(b) a motor vehicle has been purchased or acquired at a public auction conducted by, or on behalf of, Government, the person succeeding to the possession of the vehicle or, as the case may be, who has purchased or acquired the motor vehicle, shall make an application for the purpose of transferring the ownership of the vehicle in his*



*name, to the registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, in such manner, accompanied with such fee, and within such period as may be prescribed by the Central Government.*

*(3) If the transferor or the transferee fails to report to the registering authority the fact of transfer within the period specified in clause (a) or clause (b) of sub-section (1), as the case may be, or if the person who is required to make an application under sub-section (2) (hereafter in this section referred to as the other person) fails to make such application within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the transferor or the transferee, or the other person, as the case may be, to pay, in lieu of any action that may be taken against him under section 177 such amount not exceeding one hundred rupees as may be prescribed under sub-section (5): Provided that action under section 177 shall be taken against the transferor or the transferee or the other person, as the case may be, where he fails to pay the said amount.*

*(4) Where a person has paid the amount under sub-section (3), no action shall be taken against him under section 177.*

*(5) For the purposes of sub-section (3), a State Government may prescribe different amounts having regard to the period of delay on the part of the transferor or the transferee in reporting the fact of transfer of ownership of the motor vehicle or of the other person in making the application under sub-section (2).*

*(6) On receipt of a report under sub-section (1), or an application under sub-section (2), the registering authority may cause the transfer of*





*ownership to be entered in the certificate of registration.*

*(7) A registering authority making any such entry shall communicate the transfer of ownership to the transferor and to the original registering authority, if it is not the original registering authority."*

*16. On bare reading of Section 50 of the Act shows what is the procedure that has to be adopted for transfer of the vehicle. Mere signing of Form No.29 and passing of sale receipt of the vehicle ipso facto does not result in transfer of the motor vehicle.*

*17. The law enjoins that the erstwhile owner must also fill up the necessary particulars in Form No.30 and then file it before the Registering Authority and it is then the transfer of the ownership of the vehicle is completed.*

*18. In the present case, admittedly, the erstwhile owner, who is the appellant, did not make any declaration as required under Form No.30. The law on the point that whether the erstwhile owner of the vehicle not declaring required particulars under Form No.30 vis-à-vis, the compensation to be paid in an accident involving the transferred vehicle is no longer res-integra. In this regard, this Court place reliance on the following decisions of the Hon'ble Apex Court, which reads as under:*

**(2018) 3 supreme Court Cases 1,**

**Naveen Kumar**

**v.**

**Vijay Kumar and others.**

*Motor Vehicles Act, 1988 – Ss. 2(30), 50, 166, 168, 173, 146(1) and 196 – Motor accident – Liability of "owner" of offending vehicle – "Owner" of vehicle – Who is – Definition of "owner" under*



*S. 2(30) of MV Act, 1988 – Scope of – Continuance of name of registered owner of vehicle in records of Registering Authority despite sale/transfer of vehicle by him – Situation distinguished where a motor vehicle is subject to an agreement of hire purchase, lease or hypothecation or is under requisition.*

**(2001) 8 Supreme Court Cases 748,**

**Dr. T. V. Jose**

**v.**

**Chacko P.M. Alias Thankachan and others.**

*A. Motor Vehicles Act, 1939 – Ss. 31, 94 and 95 – Transfer of ownership without intimation to the registering authority – Validity and effect – Transfer of ownership by payment of consideration and delivery of vehicle, held, permissible but during the continuance of the transferor's name on the records of the registering authority, the transferor would remain liable to third parties – In the instant case the vehicle underwent a number of such transfers and the accident took place during the ownership of the last transferee – Original owner unsuccessfully opposing before the forums below the claim for compensation to which the last transferee was not a party – Original owner impleading the said transferee, only in his appeal to Supreme Court – In such circumstance, held, Supreme Court would not examine the question of inter se liability between the appellant and such last transferee – Motor Vehicles Act, 1988, Ss. 50, 146 and 147 - Constitution of India, Art. 136 – Parties – Party impleaded in appeal to Supreme Court but not before the forums below – Inter se liability between the appellant and such party if to be considered by Supreme Court.*



*19.. On careful perusal of the above decisions, it is crystal clear that the law enjoins a duty on the erstwhile owner to declare certain particulars as contemplated in Form No.30 for completion of transfer of the ownership. Mere passing of a sale receipt or signing Form No.29 ipso facto does not result in transfer of the ownership. In view of the same, the liability to pay the compensation rests with the erstwhile owner of the vehicle."*

12. The principles of law enunciated in **Naveen Kumar's** case and in MFA No.23935/2009 supra, it is crystal clear that unless the erstwhile owner takes necessary steps in getting his name removed from the registers maintained in the Regional Transport Office and enters the name of the subsequent purchaser, the civil liability will have to be borne by the erstwhile owner.

13. The grouse of the present petitioner is that he being not the owner of the offending vehicle in question as on the date of the accident and despite the said fact was brought to the notice of investigation agency, the investigation agency



has filed charge sheet against the petitioner which is impermissible.

14. In view of the above factual position and the principles of law enunciated in **Naveen Kumar's** case and in MFA No.23935/2009 supra, such a course was not open to the investigation agency in arraigning the present petitioner as accused in the pending criminal case. Thus, the action of the investigation agency has affected the rights of the petitioner calling for interference by this Court under Section 482 of Cr.P.C.

15. Accordingly, following order is passed:

ORDER

Criminal petition is allowed.

Charge sheet filed in Kakati P.S. Crime No.150/2015 insofar as petitioner is quashed.



However, the police are at liberty to investigate the matter and file appropriate report against the concerned person/s and the owner of vehicle, who are responsible for the rash and negligent driving and file appropriate report in accordance with law.

**Sd/-**  
**JUDGE**

SH  
List No.: 2 SI No.: 65