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**(2002) 09 DEL CK 0258**

**Delhi High Court**

**Case No:** CRLMM No. 954 of 2002

Prateesh @ Ravi

APPELLANT

Vs

State of N.C.T. of Delhi

RESPONDENT

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**Date of Decision:** Sept. 2, 2002

**Citation:** (2001) 101 DLT 10

**Hon'ble Judges:** Mahmood Ali Khan, J

**Bench:** Single Bench

**Advocate:** K.P. Mavi, for the Appellant; Pawan Sharma, APP, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Mahmood Ali Khan, J.

On 10.11.1998 Sanjay Kumar Sharma, the complainant who was running a travel agency, lodged a complaint that one Ravi called him on telephone that his (complainant's) travel agency had provided a car to him in Manali with one driver Bittoo and he requested for providing a Tata Sumo car. The complainant sent it on 30.10.1998 with driver Jagdev. The driver informed him that they were moving about in Delhi and on the next day they would go to Rajasthan. But nothing was heard for next 4/5 day. On inquiry he also found that no person by the name of Ravi was living in Preet Vihar address which was given on telephone. He suspected that the driver had run away with the vehicle. Case was registered at P.S. Samaipur Badli. On 01.9.2000 Satish Kumar and Abhishek Babu were arrested by a police officer in a case registered at P.S. Seelampur on the secret information that they wanted to sell stolen motorcycle. During interrogation they disclosed that they had committed theft of the motorcycle in complicity with their associate Rahul @ Mohan Shorab and Sudhir Mohan Jha about 15-20 days before from Preet Vihar. On 01.10.2000 the confessional statement of the accused Sudhir Mohan Jha was recorded in which he disclosed that about two and a half years back a Tata Sumo, original number of which was not remembered to him, but at present was carrying a forged number plate DL-IV-3443, was stolen by him with his accomplice Ashu and Ravi (the petitioner) from Shakarpur and Ravi and he were running that Tata Sumo car as taxi at New Delhi

Railway Station. The vehicle had gone out of station and was expected to come back next morning. On his disclosure statement the Tata Sumo car in question was recovered and necessary information was sent to P.S. Samaipur Badli where the vehicle was seized. The petitioner was also arrested.

2. The petitioner has applied for bail. The arguments of his counsel are that the only incriminating evidence in possession of the prosecution is the alleged disclosure statement, the confessional statement, the confessional statement of the co-accused and also a power of attorney under which the vehicle in question was allegedly sold. It was argued that the occurrence in the instant case had taken place in 1998 whereas this petitioner was arrested in September, 2000 and there is no proximity between the death of the complainant's driver Jagdev who was sent with Tata Sumo vehicle on being requisitioned by Ravi and the recovery of vehicle. According to him there was no evidence to connect this petitioner with the murder of Jagdev.

3. APP on the other hand strongly opposed the grant of bail to this accused as the investigation shows his involvement in a heinous crime. He also contended that the statement of Narender Kumar, the power of attorney which had been executed by this petitioner as well as pointing out memo of the place where the murder of Jagdev had taken place have fully established the complicity of the petitioner in the crime.

4. I have given careful consideration to the submissions made at the bar. It is true that the case was registered in 1998 but did not make any headway. The complainant had suspected that his own driver Jagdev had run away with the vehicle. However, during the investigation of another case of a different police station the accused made disclosure statement which ultimately led to the arrest of the petitioner and recovery of the vehicle. The petitioner made a confessional-cum-disclosure statement. He also led to the police party for pointing out the place where the murder of Jagdev was committed. The Tata Sumo seized was being run under a fake registration number and it was being run under the power of attorney executed by this petitioner. Moreover the statement of Narender Singh showed that Manish, brother of the petitioner was plying an autorikshaw owned by the witness and during this period the petitioner used to visit his brother with Tata Sumo in question. He was seeing the Tata Sumo vehicle with Ravi for over 7/8 months. About Rs. 16,000/- became outstanding against Manish, brother of the petitioner and when he demanded the money back Manish suggested that he i.e. the witness should acquire and ply Tata Sumo vehicle and that Ravi then came to him with Tata Sumo in question and requested him to advance a sum of Rs. 50,000/- against the pledge of Tata Sumo. He gave Rs. 50,000/- to the petitioner and petitioner gave the vehicle to the witness. He got the vehicle plied in 1999. On one pretext or the other the petitioner took money in small bits and as a consequence a sum of Rs. 1.5 lacs became due against the petitioner and his brother Manish. One day the petitioner requested him to purchase the vehicle since they could not arrange to re-pay the money. On 27.8.1999 the petitioner sold this vehicle to him and he executed a special power of attorney about this sale.

5. The matter is still under investigation. At present, prima facie, there is incriminating evidence available against the petitioner to involve him in the commission of the gruesome murder of Jagdev for robbing him of Tata Sumo with him. It will not be prudent at this stage to release this petitioner on bail. His release may hamper the effective investigation of the case. He may not be available at the trial and there is possibility of tampering of evidence also.

Accordingly, I do not find any merit in the petition. It is dismissed.