

8. With above observations, the Hon'ble Apex Court concluded that **"In view of the above, it is clear that the consistent view of this Court is that the accused cannot ask for changing the Investigating Agency or to do investigation in a particular manner including for Court monitored investigation.** However, Hon'ble Apex Court while placing reliance on an earlier judgement in In Narmada Bai v State of Gujarat,²² the petitioner filed a writ 22 (2011) 5 SCC 79, observed that "this case supports my view that in the interest of justice, and particularly when there are serious doubts regarding the investigation being carried out, it is not only permissible, but our constitutional duty to ensure that the investigation is carried out by a special investigation team or a special investigative agency so that justice is not compromised."

9. In present case, the main contention raised on behalf of the petitioners is that they have been roped in by the informant in present criminal case with a view to exert pressure in a civil suit filed at the instance of petitioner No.1 for avoidance of a sale deed propounded by respondent No.4, the informant with regard to disputed land on which petitioners claimed their title and possession. Only, on this count, it cannot be discerned that the case lodged at the instance of the informant is malicious or investigation carried out by the police has been shoddy or perfunctory or partial. Law will take its own course.

10. Without expressing any opinion on the version and counter version of the informant and accused side and placing reliance on the dictum of Hon'ble Apex Court in above cited case, we are of the considered opinion that the prayer made in present writ petition is not liable to be granted.

11. Accordingly, present writ petition stands **dismissed**.

12. However, it is made clear that any observation made hereinabove will have no bearing on the merits of the case.

(2024) 9 ILRA 1438
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 13.09.2024
BEFORE

THE HON'BLE SUBHASH VIDYARTHI, J.

Matters Under Article 227 No. 3907 of 2024

The New India Assurance Company Ltd.,
Lakhimpur Kheri **...Petitioner**
Versus
Permanent Lok Adalat, Lakhimpur Kheri &
Anr. **...Respondents**

Counsel for the Petitioner:

Asit Srivastava

Counsel for the Respondents:

Civil Law – Constitution of India,1950 - Article 227 -validity of judgement delivered by Permanent Lok Adalat challenged-dispute regarding insurance claim for a truck accident-whether the owner of the truck who had agreed to sell the truck to some other person retained insurable interest- statutory provision regarding transfer of vehicles- contained in Section 157 of the Motor Vehicles Act, 1988- as the truck's ownership had not legally transferred-no change in ownership-respondent owner thus entitled to claim- legislative intent to hold insurers liable even if ownership transfer isn't recorded-petition dismissed. (Paras 13, 14, 16, 17 and 18)

HELD:

Further, Section 157 provides that upon transfer of ownership of a vehicle, the certificate of insurance and the policy described in the certificate shall be deemed to have been

transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer. The deeming fiction provided by the statute means that even if the insurance policy is not transferred in fact, the insurance company would become liable under the policy to the transferee of the vehicle. Therefore, the intention of the legislature is to make the insurance company liable immediately, in spite the transfer having not been recorded in the records of the transport office. The intention of the legislation is to include the transferees liberally and not to exclude them strictly. (Para 13)

This judgment also affirms the conclusion drawn by this Court in the preceding paragraph that the intention of the legislature is to make the insurance company liable immediately, in spite the transfer having not been recorded in the records of the transport office. The intention of the legislation is to include the transferees liberally and not to exclude them strictly. (Para 14)

The Hon'ble Supreme Court held that the transfer of the vehicle was not in dispute and the insurance company was liable to satisfy the claim. This judgment also supports the view of this Court that the intention of the legislature is to make the insurance company liable immediately, in spite the transfer having not been recorded in the records of the transport office and the intention is not to exclude the transferees strictly. (Para 16)

In the present case the transfer does not stand completed and the claimant continues to be the registered owner of the vehicle. He had entered into a contract of insurance with the appellant and he filed the claim. (Para 17)

In absence of the ownership of the vehicle having been transferred, the petitioner would continue to be liable under the contract of insurance entered between the appellant and the registered owner of the vehicle. (Para 18)

Petition dismissed. (E-13)

List of Cases cited:

1. Complete Insulations (P) Ltd. Vs New India Assurance Co. Ltd., (1996) 1 SCC 221

2. Balwant Singh & Sons Vs National Insurance Co. Ltd., (2020) 11 SCC 745

(Delivered by Hon'ble Subhash Vidyarthi, J.)

1. Heard Sri Asit Srivastava, the learned counsel for the petitioner, Sri Ashok Kumar, the learned Counsel for the caveator / opposite party – Govind Gupta and perused the record.

2. By means of the instant petition filed under Article 227 of the Constitution of India, the petitioner has challenged validity of the judgment and order dated 04.06.2024 passed by the Permanent Lok Adalat, Lakhimpur Kheri in P.L.A. Case No. 09 of 2022.

3. The opposite party Govind Gupta filed the aforesaid P.L.A. case stating that he is the registered owner of Truck bearing registration no. UP 31 T 9835, which was insured by the petitioner - The New India Assurance Co. Ltd. for the period 06.11.2019 to 05.11.2020 for a sum of Rs.13,00,000/-. The truck met with an accident in the night of 01.11.2020. The opposite party gave information of the damage caused to the truck to the petitioner and submitted a claim form. The petitioner's surveyor had inspected the truck. Rs.4,85,768/- were spent in repair of the truck and the opposite party had submitted the repair bills to the petitioner. The petitioner rejected the insurance claim.

4. The petitioner filed objections stating that after the surveyor had submitted his report, the petitioner had appointed an investigator, who took a written statement of the opposite party, wherein the latter stated that he had transferred the truck to one Sanjeev Kumar son of Siya Ram subject to the condition

that Sanjeev Kumar will pay the Bank's installments. At the time of the accident, the truck was being driven by a driver engaged by Sanjeev Kumar. At the time of the accident the truck was in custody of Sanjeev Kumar and not in custody of the opposite party. The investigator had recorded statement of Sanjeev Kumar also, who stated that he was paying the installments to the bank. The petitioner claims that this indicates that the truck was in custody of Sanjeev Kumar and ownership of the truck could not be transferred only because the truck was hypothecated and it could legally be transferred only after repayment of the loan. The petitioner had disputed correctness of the amount spent in repairs also.

5. The Permanent Lok Adalat had framed the following three issues: -

1) Whether the dispute was beyond jurisdiction of the Court?

2) What would be the effect of involvement of a third party in the dispute between the parties?

3) Whether the truck met with an accident in the night of 01/01.11.2020 and whether the claimant was entitled to receive compensation for the damage caused to the vehicle? If yes, then he is entitled to receive what amount as compensation?

6. While dealing with issue no. 2, the Permanent Lok Adalat has recorded in its judgment that the petitioner has admitted in the written statement that the vehicle was insured; that it had met with an accident; that the claimant - opposite party had given information of the accident; that the vehicle got damaged in the accident and that it has rejected the insurance claim. It was

contended by the petitioner that the opposite party had transferred the vehicle to Sanjeev Kumar and, therefore, the opposite party did not have any insurable interest. The petitioner admitted that as the vehicle loan amount had not been repaid, the vehicle could not be transferred and it continued to be registered in the name of Sanjeev Kumar. Sanjeev Kumar had filed an application for impleadment which had been rejected on 27.04.2023 as he was not the owner of the vehicle and he could not be impleaded in the proceedings.

7. Keeping in view all the aforesaid facts and circumstances of the case, the Permanent Lok Adalat came to the conclusion that the agreement between the opposite party and Sanjeev Kumar would not affect the adjudication of dispute between the parties to the case.

8. Sri. Asit Srivastava, the learned Counsel for the petitioner has limited his ground of challenge to the finding recorded on Issue no. 2 only.

9. The learned Counsel for the petitioner has drawn attention of the Court to a copy of the agreement dated 24.10.2019 executed by the opposite party and Sanjeev Kumar Verma, whereby the opposite party had agreed to sell the truck to the latter, the transferee had agreed to pay installments to the bank towards repayment of the loan and the parties had agreed that the vehicle will be transferred thereafter. It is also written in the agreement that the entire responsibility regarding the vehicle after execution of the agreement would lie on the transferee.

10. The learned Counsel for the petitioner has submitted that when the truck had been transferred by the opposite party,

he was not entitled to make any insurance claim in respect of the transferred vehicle. In support of this contention, he has placed reliance on the judgments in the cases of **Complete Insulations (P) Ltd. v. New India Assurance Co. Ltd.**, (1996) 1 SCC 221 and **Balwant Singh and Sons v. National Insurance Co. Ltd.**, (2020) 11 SCC 745,

11. The statutory provision regarding transfer of vehicles is contained in Section 157 of the Motor Vehicles Act, 1988, which provides as follows: -

“157. Transfer of certificate of insurance

(1) Where a person, in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter, transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

Explanation.-- For the removal of doubts, it is hereby clarified that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance.

(2) The transferee shall apply within fourteen days from the date of transfer in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour, and the insurer shall make the necessary changes in the certificate and the policy of

insurance in regard to the transfer of insurance.”

12. Thus a bare perusal of the aforesaid statutory provision makes it manifest that the aforesaid section is attracted when the owner of the vehicle transfers the ownership of the motor vehicle, which has not been done in the present case. The opposite party had merely entered into an agreement for transferring the ownership of the vehicle at a future point of time, after repayment of the entire loan taken for purchase of the vehicle.

13. Further, Section 157 provides that upon transfer of ownership of a vehicle, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer. The deeming fiction provided by the statute means that even if the insurance policy is not transferred in fact, the insurance company would become liable under the policy to the transferee of the vehicle. Therefore, the intention of the legislature is to make the insurance company liable immediately, in spite the transfer having not been recorded in the records of the transport office. The intention of the legislation is to include the transferees liberally and not to exclude them strictly.

14. In **Complete Insulations (P) Ltd. v. New India Assurance Co. Ltd.**, (1996) 1 SCC 221, a car was purchased in the name of Mrs Archana Wadhwa for which the respondent company had issued a comprehensive insurance policy. The premium for the insurance was paid by the appellant Company in whose favour the car was transferred. The registration of the car

was transferred to the appellant on 15.06.1989. On 26.06.1989, the appellant intimated the transfer of registration and asked for transfer of the insurance policy. A reminder was sent on 24.07.1989, but the respondent did not respond. On 17.09.1989 the car met with an accident in which the Managing Director of the appellant suffered serious injuries and his sister died. On 11.10.1989 the appellant asked for the assessment of the damage as the car was a total loss. The respondent did not respond. A reminder dated 26.12.1989 met with the same fate. The appellant got a notice issued, to which the respondent replied that the appellant had no insurable interest in the car. The appellant filed a complaint before the Consumer Disputes Redressal Commission, Chandigarh, which directed the respondent to pay Rs. 83,000/- i.e. the insured value of the vehicle, along with costs and interest. The National Consumer Disputes Redressal Commission set aside the order of the Commission at Chandigarh, dismissed the complaint and granted cost of the appeal. The question involved in appeal before the Hon'ble Supreme Court was whether on the above facts, without the insurance policy being transferred in the name of the appellant, it was entitled to be indemnified by the insurer. The Hon'ble Supreme Court answered the question in the affirmative, holding the Insurance Company liable to indemnify the transferee although the insurance policy had not been transferred in its name. This judgment also affirms the conclusion drawn by this Court in the preceding paragraph that the intention of the legislature is to make the insurance company liable immediately, in spite the transfer having not been recorded in the records of the transport office. The intention of the legislation is to include the transferees liberally and not to exclude them strictly.

15. **Balwant Singh and Sons v. National Insurance Co. Ltd.**, (2020) 11 SCC 745, was an appeal filed arising from a judgment of the National Consumer Disputes Redressal Commission dismissing a revision petition filed by the appellant. Ncdrc upheld the view of the District Consumer Disputes Redressal Forum, Jalandhar and of the State Consumer Disputes Redressal Commission, Chandigarh that the insurer was not liable on a claim preferred under a policy of insurance for the loss of a vehicle occasioned by theft. The undisputed facts of the case were mentioned in para 9 as follows: -

“9.1. The appellant purchased the vehicle at an auction conducted by the Bank to whom the vehicle was hypothecated in pursuance of a hire-purchase agreement.

9.2. The appellant paid full consideration for the sale which was conducted in an auction to the Bank.

9.3. A certificate of possession was furnished to the appellant by the Bank.

9.4. The Bank intimated the insurer that it ceased to have a lien on the vehicle consequent to the auction-sale.

9.5. The proposal for insurance was submitted by the appellant to the insurer.

9.6. Premium in respect of the insurance cover was paid by the appellant.

9.7. The policy of insurance was issued by the insurer in the name of the third respondent but clearly reflecting the name of the appellant as well. Evidently, in this background, the reference of the appellant was not just for the purposes of a postal address.”

16. The Hon'ble Supreme Court held that the transfer of the vehicle was not in

dispute and the insurance company was liable to satisfy the claim. This judgment also supports the view of this Court that the intention of the legislature is to make the insurance company liable immediately, in spite the transfer having not been recorded in the records of the transport office and the intention is not to exclude the transferees strictly.

17. In the present case the transfer does not stand completed and the claimant continues to be the registered owner of the vehicle. He had entered into a contract of insurance with the appellant and he filed the claim.

18. In absence of the ownership of the vehicle having been transferred, the petitioner would continue to be liable under the contract of insurance entered between the appellant and the registered owner of the vehicle.

19. In view of the foregoing discussion, I am of the considered view that there is no illegality of error in the judgment and order dated 04.06.2024 passed by the Permanent Lok Adalat, Lakhimpur Kheri in P.L.A. Case No. 09 of 2022 allowing the claim of the opposite party warranting interference by this Court.

20. The petition lacks merits and the same is **dismissed**. The parties shall bear their own costs of litigation.

(2024) 9 ILRA 1443

**ORIGINAL JURISDICTION
CRIMINAL SIDE**

DATED: ALLAHABAD 25.09.2024

BEFORE

THE HON'BLE ARVIND SINGH SANGWAN, J.

**THE HON'BLE MOHD. AZHAR HUSAIN
IDRISI, J.**

Habeas Corpus Writ Petition No. 445 of 2024

Kallu @ Praveen ...Petitioner
Versus
U.O.I. & Ors. ...Respondents

Counsel for the Petitioner:

Anju Shukla, Nigamendra Shukla

Counsel for the Respondent:

A.S.G.I., G.A., Prem Narayan Rai

Criminal Law – Constitution of India,1950 - Article 226 - order of preventive detention by District Magistrate- under Section 3 (2) of the National Security Act, 1980-detention under F.I.R. under Sections 147, 148, 149, 302 and 404 of IPC-detention is based on this FIR- no sucg proceedings initiated against the petitioner in St. of Haryana on basis of earlier registered FIR- matter of trial whether the petitioner who is nominated on the St.ment of co-accused-such St.ment can be read in evidence against the petitioner when eyewitnesses have not named him-petitioner was not initially named in FIR-implicated later on the St.ment of co-accused- lack of a proper hearing and non-disclosure of vital materials to petitioner- NSA provisions cannot be used to prevent bail applications-detention order set aside-petition allowed. (Paras 26 and 27)

HELD:

The detention of the petitioner is based on two F.I.R. i.e. one Case Crime No. 0611 of 2023 under Sections 147, 148, 149, 302 and 404 of IPC at Police Station – Teelamod, Trans Hindon Commissionerate Ghaziabad in U.P. In this F.I.R., for a period of one month, the informant, his wife, and wife of his deceased-brother did not name the petitioner as an accused. Rather, perusal of the F.I.R. shows that the same has been registered against the co-villagers on account of enmity regarding the election of Village Pradhan and all the three witnesses have assigned specific roles of firing on deceased to those persons who are residents of the same