MHPU260019892024

ORDER BELOW EXH. 1 IN CRI. M. A. NO. 179/2024

1. This is the complaint filed against the Accused No. 1 to 3 for the offences punishable under Sections 403, 416,420 r/w 34 of the Indian Penal Code (in short “IPC”). Perused the complaint, verification of the Complainant and documents filed on the record. Heard the Ld. Advocate for the Complainant.

2. It is the case of complainant that in and around July 2023, the complainant came across an advertisement placed on the online platform namely OLX Indian Pvt. Ltd. for alleged sale of second hand Four Wheeler Car, Maruti Suzuki Swift Dzire, bearing registration No. MH 12 VF 3826 (hereinafter referred to as "the said car"). The said car was put on sale for amount of Rs.7,50,000/- by accused No.1 on the online platform of accused No.3. But while putting the said car on sale, accused No.3 had not done proper independent physical verification. Also accused No.1 dishonestly and in order to cheat the complainant, showed the said car to the complainant. The complainant personally verified the details of the car and its documents on 20.07.2023. Thereafter, the complainant, relying upon alleged documents of the said car, showed his interest to purchase the said car for amount of Rs. 7,43,000/-from accused No.1. After making the arrangement for the funds the complainant executed a 'Vehicle Purchase Agreement' dated 22.07.2023 with accused No.1 who had fraudulently used name of accused No.2. The said agreement got notarized on 23.07.2023 at Talegaon Dabhade before the Advocate and Notary. On the same day the complainant through his father at his residence handed over to accused No.1 a token amount of Rs. 4,00,000/- in cash and 3,43,000/- by cheque No.000018 dated 25.07.2023 issued in name of accused No.2.

3. On the same day accused No.1 dishonestly handed over the possession of the said car to the complainant and gave false assurance that RTO documents of said car will be transferred in few days. For the alleged transfer of said car documents through RTO accused No.1 with malafide intention had called complainant on 26.07.2023. On 27.07.2023 accused No.1 sent soft copy of RC Book to the complainant. But thereafter accused No.1 avoided to comply the same. On 31.07.2023 the complainant tried to visit accused No.1 on the address mentioned on the RC Book and upon further investigation it was revealed that accused No.1 was not available on the address mentioned on RC Book. Thereafter the complainant came to know that accused No.1 is not the same person with whom said agreement was executed and cash and cheque was handed over. Also it is found that accused No.2 is original owner of said car. The complainant realized that the said car was posted by accused No.1 who was working as driver with accused No.2. Accused No.1 while doing so, has also tampered documents such as Adhar Card, Pan card of accused No.2 by replacing and affixing photoghraph of accused No.2 with photograph of accused No.1.

4. The complainant on 01.08.2023 along with accused No.2 visited accused No.1 at his residence but accused No.1 was not available at his residence. Hence the complainant and accused No.2 approached Kothrud police station, Pune to file complaint against accused No.1. Thereafter accused No.1 found at Lohegaon. Thereafter the complainant and accused No.2 immediately took accused No.1 to Kothrud Police Station. Accused No.1 admitted that cash taken by accused No.1 from complainant is lying in the account of accused No.1. But accused No.2 got transferred an amount of Rs. 2,50,000/- from bank account of accused No.1. Also cheque issued by the complainant has also been kept by accused No.2 in his custody.

Thereafter, the complainant attempted to lodge complaint at Talegaon Dabhade Police Station but they have not taken any action on the said complaint. As police failed to take cognizance present complaint is filed.

5. It is pertinent to note that complainant purchased said car from accused No.1 and transferred total amount of Rs. 4,00,000/-in cash to accused No.1 and Rs. 3,43,000/- by cheque in the name of accused No.2. Thereafter he came to know that accused No.1 in connivance with accused No.2 has cheated the complainant by selling the said car and fraudulently tampering the documents and cheated the complainant by impersonation. But upon attempting to file police complaint he has not taken any action.

6. Considering these facts on record it is seen that, accused no. 1 cheated the complainant by selling the said car and fraudulently tampering the documents and cheated the complainant by impersonation. It is the allegation of the complainant that accused No.1 committed the said offence. Prima facie documentary evidence is filed on record. But there is no prima facie evidence seen on record about accused No.2 and 3. Ingredients of offences not made out against accused No.2 and 3. In view of all these factors, I find that there are sufficient grounds to proceed against the accused No.1. Thus, process can be issued against the Accused No.1 for the offence punishable under Section 403, 419, 420 of IPC. But complaint against accused No.2 and 3 is dismissed.Hence the following order:-

ORDER

1. Issue process against the Accused No. 1 for the offence punishable under Sections 403, 419, 420 of IPC vide section 204 of Code of Criminal Procedure.
2. Complaint against accused No.2 and 3 is dismissed vide Section 203 of Cr.P.C.
3. Case be re-registered as R.C.C.

SAVITA APPASO MALI

Digitally signed by SAVITA APPASO MALI
Date: 2025.09.16 17:39:04 +0530

Vadgon Maval, Pune.
Date : 15.09.2025

(S. A. Mali)
5th Jt. Judicial Magistrate First Class
Vadgaon Maval, Pune.