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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1744/2016

HARISH KUMAR

..... Petitioner

Through : Ms. Sumita Kapil and Ms. Pooja
Swami, Advs.

versus

THE STATE (NCT OF DELHI) & ANR.

..... Respondents

Through : Mr. R. S. Kundu, ASC, Mr. Rakesh
Kumar and Mr. Ankit Gupta, Advs.
with SI Mahendra Koli PS Subzi
Mandi.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **08.12.2016**

Petitioner has filed this petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. praying therein that FIR No.336/2015 under Sections 420/467/468/471 IPC registered at police station Subzi Mandi be quashed.

At the relevant time, petitioner was working as a peon in the District Courts, Delhi. FIR was registered on the complaint of respondent no.2, that is, Office of the Administrative Civil Judge (Central), Delhi. It is alleged in the FIR that petitioner filed two applications vide diary no.4437 and 5333 dated 16th May, 2015 and 9th June, 2015 respectively along with medical reimbursement claim of ₹2,04,233/- in respect of medical treatment of his wife from MAX Hospital, Shalimar Bagh, Delhi in emergency. Relevant

documents were annexed with the claim. On scrutiny, it was revealed that in the copy of medical facility card, two names were mentioned in the column of wife, that is, Smt. Veena Rani and Smt. Kanta Rani. On verification from the record, maintained by the office, it was revealed that neither any document pertaining to Smt. Kanta Rani was submitted, nor any application for correction/change of name was filed. Petitioner had tempered with DGEHS medical facility card by adding the name of Smt. Kanta Rani fraudulently and for deceiving the office in order to claim medical reimbursement incurred on the treatment of Smt. Kanta Rani knowing fully-well that Smt. Kanta Rani was not entitled to reimbursement of medical expenses as it is Smt. Veena Rani, who was the wife of petitioner as per the records.

Learned counsel for the petitioner has vehemently submitted that Smt. Veena Rani and Smt. Kanta Rani are one and the same person. Smt. Veena Rani is also known as Kanta Rani. Petitioner had not made any interpolation and even if it is presumed that such an interpolation was made, he would not have derived any illegal gains, since his claim was in respect of his wife, that is, Smt. Kanta Rani, who was also known as Smt. Veena Rani. In the previous DGEHS card, her name was mentioned as Smt. Veena Rani. Now

fresh card has been issued wherein instead of Veena Rani name of wife of petitioner has been recorded as Kanta Rani. Petitioner has not made the alleged interpolation and which fact has duly been established from the FSL report. It is submitted that since petitioner had not derived any illegal gains nor caused any illegal loss to respondent no.2, ingredients of offence under Section 420 IPC are not attracted. It is further contended that there was no intention of petitioner to cheat the respondent no.2, inasmuch as, no benefit has been derived by the petitioner, therefore, ingredients of offence under Sections 467/468/471 IPC are also not attracted, inasmuch as, petitioner had not used the forged document as genuine document to derive any illegal gains. The claim was in respect of medical treatment of the wife of the petitioner and not for any third person not entitled to such benefit. Petitioner's wife was entitled to medical reimbursement. Reliance has been placed on *Parminder Kaur Vs. State of Uttar Pradesh*, 2009 (15) SCR 430.

Learned Additional Standing Counsel submits that in the card, petitioner had added name of his son Yuvraj also. As per FSL, said handwriting was of the petitioner. Learned counsel for the petitioner has contended that Yuvraj is the son of petitioner. This fact has been verified

during investigation. It is further submitted that now respondent no.2 has corrected the record, on an application filed by petitioner, who is since retired. Name of Kanta Rani and Yuvraj finds mentioned in the medical facility card. Photocopy of medical facility card has been placed on record. During the investigation it has been established that Smt. Kanta Rani is wife and Yuvraj is son of the petitioner. It is, thus, clear that petitioner was entitled to claim medical reimbursement of Smt. Kanta Rani. Petitioner has not derived any financial benefit nor any financial loss has been caused to the respondent no.2 or to anybody else. Ingredients of offence under Section 420 IPC are not attracted. Ingredients of other offences are also not attracted, inasmuch as, petitioner had no intention to use the forged document as genuine in order to obtain medical reimbursement of the amounts illegally to which he was not entitled to. In fact, he was entitled to such a claim, Smt. Kanta Rani being his wife.

For the foregoing reasons, FIR No.336/2015 under Sections 420/467/468/471 IPC registered at police station Subzi Mandi, which is at the investigation stage, is quashed.

Petition is disposed of in the above terms.

A.K. PATHAK, J.

DECEMBER 08, 2016/dk