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

Decided on: 17th July, 2018

+ CRL.MC. 1461/2016 & CrI.M.A.6234/2016

DHARMENDRA PRASAD SINGH & ANR..... Petitioners

Through: Mr.Vishwajit Singh, Advocate with
Ms. Ridhima Singh & Mr. Vijaya
Singh, Advocates

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. Ravi Nayak, APP for the State
Mr. Suneet Bhardwaj, Advocate for
R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The present petition was filed invoking jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking quashing of the summoning order passed on 09.12.2015 by the Metropolitan Magistrate on the complaint case (CC No.194/1/14) presented by the second respondent. The complaint case was submitted by the second respondent (the complainant) alleging offence under Section 420 of the Indian Penal Code, 1860 (IPC) having been committed by the petitioners herein.

2. The complainant had, *inter alia*, alleged that he had earlier lodged a report with Station House Officer (SHO) of Police Station

Tilak Marg on 27.08.2014 on which no action was taken. The magistrate called for a report from the police as to the action taken on the said complaint and thereafter took cognizance and held pre-summoning inquiry. Upon consideration of the evidence thus adduced in the said preliminary inquiry, she found grounds to proceed against the petitioners and issued summons by a detailed reasoned order passed on 09.12.2015, which is sought to be assailed by the petition at hand.

3. The complainant is a non-resident Indian (NRI) describing himself as an eye surgeon, Balrampur (UP) being his native place, he presently being based in London. He alleged that the first petitioner being the *Maharaja* (royalty) of Balrampur had approached him and his family to take the initiative of serving the local people by developing a good hospital. According to him, a company named Balrampur Medical Institute and Research Center Limited was formed and got registered on 21.07.2005 with the Delhi residential address of the petitioners being the registered office in which, at the instance of the petitioners the complainant and members of his family invested huge amounts for developing of buildings, infrastructure, equipments, etc. It is the allegation of the complainant that the petitioners had misused for personal gain a land admeasuring 12.5 acres of the company, failing to account for the agricultural income accruing therefrom by not depositing the same in the company account. He alleged that on 14.03.2013 one B.K. Singh with certain other persons including a person described

as Col. Bhandari had forcibly taken over the building of the institute developed in Balrampur. It is also, *inter alia*, alleged that he has been cheated of the amount of Rs.60,02,053/- by various acts of commission and omission. During the course of hearing, reference was also made to a “collusive” suit (Suit No.65/2012) which had been instituted by the first respondent impleading his own son and certain others as the defendants wherein a compromise decree was obtained in terms of which the registered sale deed dated 18.04.2006 of the land which was subject matter of the dispute between the parties was got cancelled fraudulently behind the back of the complainant.

4. The prime argument of the petitioners before this court is that the complaint has been wrongly entertained by the court of Magistrate in Delhi, all the acts of commission or omission alleged to have been committed having occurred in Balrampur U.P. Reliance is placed on *Y. Abraham Ajith & Ors. vs. Inspector of Police, Chennai & Anr.*, (2004) 8 SCC 100.

5. Having heard the learned counsel on both sides and having gone through the record, this court finds no substance in the above plea, inasmuch as there are allegations of several acts having been committed within the local areas over which the court of Metropolitan Magistrate in Delhi exercises jurisdiction within the meaning of Section 178(d) Cr.P.C., such acts inclusive of the very fact that the company named Balrampur Medical Institute and

Research Center Limited was formed and got registered in New Delhi on 21.07.2005.

6. It was the argument of the counsel for the petitioner that the allegations in the complaint are false and motivated. In proceedings under Section 482 Cr.P.C. it is not possible to address questions of facts. The criminal case in which the petitioners have been summoned as accused is bound to be tried as a warrant case based on private complaint and consequently the petitioners will have ample opportunities to bring on record their version, even at the stage of pre-charge evidence.

7. Reserving the defences raised by the petition at hand which may be agitated during the trial before the court of Magistrate, this court declines to interfere at this stage of the process.

8. The petition is dismissed.

R.K.GAUBA, J.

JULY 17, 2018

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