

CRM-M No. 53390 of 2018 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-53390-2018(O&M)

Date of decision: 24.01.2020

Metro Institutes of Medical Sciences Pvt. Ltd. and another

... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. R.S. Rai, Senior Advocate and
Mr. Anand Chhibbar, Senior Advocate with
Mr. Sumit Jain, Advocate and
Mr. Anurag Arora, Advocate for the petitioners.

Mr. Deepak Sabharwal, Addl. A.G., Haryana.

Mr. J. S. Bedi, Senior Advocate with
Mr. Lovekirat Singh Chahal, Advocate,
for respondent No. 2.

HARNARESH SINGH GILL, J.

Present petition under Section 482 Cr.P.C. has been filed for quashing of FIR No.765 dated 30.07.2018 registered under Sections 420, 467, 468, 471 and 120-B IPC, at Police Station Faridabad Central, District Faridabad, Haryana, along with all the subsequent proceedings arising therefrom.

In the present case, petitioner No. 1 is Metro Institutes of Medical Sciences Pvt. Ltd. and petitioner No. 2 is its Executive Chairman.

For establishing Metro Heart Institute and Multi Specialty Hospital at

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Faridabad, a Memorandum of Understanding-cum-Shareholding Agreement dated 16.04.2007 was executed in which petitioner No.2 and his wife had held 51% shareholding and respondent no. 2 and his wife had held 49% shareholding. On 13.12.2011, respondent No. 2 through email alleged that his stamp had been misused by the staff of petitioner No.2 and his signatures had been forged. When petitioner No.2 noticed certain irregularities being committed by respondent No.2, petitioner No.2 brought the same to his notice whereupon he (respondent No.2) had filed a petition before the National Company Law Tribunal, New Delhi. Thereafter, a show cause notice was issued to respondent No.2 as to why disciplinary proceedings be not initiated against him. As a counter-blast to the said show-cause notice, respondent No.2 lodged the above referred FIR No. 765 dated 30.07.2018.

As per the present FIR, Metro Speciality Hospital Pvt. Ltd., Faridabad is empanelled with Govt. of Haryana regarding treatment of heart patients of employees of Haryana Govt. w.e.f. 2003 to 2004 whereas Metro Hospital, Noida has used the name of Metro Heart Institute, Faridabad, for treatment of Haryana Government employees using fake and fabricated documents of Faridabad Hospital.

I have heard the learned Senior Counsel for petitioners, learned State counsel and the learned Senior Counsel for respondent No.2.

During the course of arguments, on the behalf of the petitioners, it has been pointed out that during the proceedings before the National Company Law Tribunal, New Delhi, i.e. on 15.11.2018 (Annexure P-24), both the parties had agreed that Mr. Justice D. K. Jain, Former Judge of the Supreme Court had consented to be an Administrator-cum-Mediator and to preside over the meetings of Board of Directors to decide the matter

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amicably. Also during the meeting held on 24.11.2018 (Annexure P-25), it was resolved by the parties to consider the feasibility and the desirability of getting the criminal proceedings, stated to have been initiated by them against each other, stayed during the continuation of the mediation proceedings. Even on 23.01.2020 before the Additional District and Sessions Judge, Gautam Budh Nagar, a statement had been given by the counsel for the petitioners that both the parties were ready for mediation and on this, the counsel for respondent No.2-complainant had sought time and the matter was adjourned for 03.02.2020. In support of their contentions, the learned Senior Counsel have relied upon the judgments rendered in International Advanced Research Centre for Powder Metallurgy and New Materials (Arci) & Ors. Versus Nimra Cerglass Technics (P) Ltd. & Anr. 2015(4) RCR (Criminal) 883.

Per contra, the learned State Counsel has submitted that FIR, in the present case, has been registered on the complaint of respondent No. 2 and the investigation is still going on. Petitioner No.2 had been served with the notice under Section 41-A Cr.P.C., but had not appeared. Thereafter, on 01.01.2020, warrant of arrest has been issued against petitioner No.2. It has also come to the knowledge of the investigating agency that petitioner No.2 has fled away to Neitherland and is evading his arrest and not joining the investigation. During investigation, it has also been found that the forged documents had been issued by forging signatures of respondent No. 2 and interrogation of petitioner No. 2 is essential to unearth the fraud played upon respondent No.2.

Learned Senior Counsel for respondent No.2 has argued that

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mediation in this case had failed and respondent No. 2 had conveyed the same to his counsel Mr. Pawan Tyagi, Advocate. Learned Senior Counsel has given a statement in this Court today that at all, no compromise has been effected with the petitioners and relied upon the judgment rendered by the Hon'ble Supreme Court in State of Karnataka Vs. Pastor P. Raja 2006 (3) RCR(Criminal) 859.

After having considered the rival contentions of the parties, I am of the considered opinion that there are legally no tenable grounds to quash the FIR and all the subsequent proceedings, especially when it could not be shown that continuing with the criminal proceedings would amount to an abuse of process of law or the same are liable to be quashed in view of the settlement (which has statedly failed in this case) between the parties.

Therefore, finding no merit in the present petition, the same is dismissed.

24.01.2020

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No