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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).No.15538 of 2021 and
Crl.M.P(MD).No.8328 of 2021

1.M/s. Hannah Joseph Hospital Pvt. Ltd.,
Rep. through its Managing Director,
Dr.Moses Joseph Arunkumar

2.Dr.Moses Joseph Arunkumar

3.Dr.Kavitha Fenn Arunkumar ... Petitioners

Vs.

1.P.S. Dhanalakshmi

2.Tamil Nadu New Health Insurance Scheme,
(Employer Scheme)
MDINDIA Health Insurance TPA Pvt. Ltd.,
Guna Complex,
New Door No.443 and 445,
Old.No.304 and 305 Anna Salai,
Teynampet, Chennai – 600 018.
(R2 is suo motu impleaded as per order of the Court,
dated 05.04.2024 in Crl.O.P(MD).No15538 of 2021)

... Respondents

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for records pertaining to the STC.No.58 of 2021 on the file of the Judicial Magistrate No.II, Usilampatti and quash the same.

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For Petitioners : MrK. Samidurai
For Respondent No.1 : Mr.T. Kumar
For respondent No.2 : Mr.N. Dilipkumar

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to STC.No.58 of 2021 on the file of the Judicial Magistrate No.II, Usilampatti and quash the same.

2. The case of the prosecution is that the first respondent / defacto complainant met with a road accident and got admitted in the petitioners' hospital and was treated as in-patient, as such, they were acquainted with each other. The petitioners had received a sum of Rs.1,75,000/- on various occasions during the treatment of the defacto complainant stating that the remaining amount will be claimed from the Insurance Company. According to the complainant, the petitioners on the pretext of advance amount for emergency treatment demanded and received a sum of Rs.1,75,000/- on 03.10.2020 without issuing receipt. When the receipt was demanded by the defacto complainant's discharge from the hospital, a cheque, dated 10.10.2020 bearing Cheque No. 766479 drawn on IDBI Bank, K.K Nagar Branch was issued by the

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petitioners towards above liability. When the cheque was presented for encahsment before State Bank of India, Valandur Branch, the same was dishonoured on 12.10.2020 as "payment stopped by drawer. Hence, a case has been registered against the petitioners for the offences under Section 200 Cr.P.C., r/w. Section 138 and 142 of NI Act arraying the petitioners as accused. Challenging the same, the petitioners herein have filed the present petition.

3. The learned counsel appearing for the petitioners submitted that the petitioners herein have performed operation for a total sum of Rs.3,12,577/- to the defacto complainant, for which, the complainant has paid a sum of Rs.1,75,000/- as advance. He would further submit that the defacto complainant informed to the petitioners that the 2nd respondent Insurance Company viz., MD India Health Care Services (TPA) Pvt., Limited has given a approval for reimbursement of operation amount and hence, she claims for refund of advance amount of Rs.1,75,000/-, paid by her. Further, the defacto complainant's husband has given an undertaking to the petitioners that he will repay the amount, if there is any failure on the part of the Insurance company. Subsequently, the proposal given by the Insurance Company was cancelled and hence,

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the direction was issued by the petitioners to the concerned Bank not to honour the cheque. He further contended that till such time, as per the undertaking given by the first respondent the balance amount was not paid to the petitioners and prays for allowing this petition.

4. The learned counsel appearing for the first respondent / defacto complainant would submit that the said failure was only on the part of the 2nd respondent / Insurance Company and hence, prima facie case is made out as against the petitioners and prays for dismissal of this Criminal Original Petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. On perusal of the records it is seen that the operation was done by the hospital authorities to the first respondent / defacto complainant for a total sum of Rs.3,12,577/-, for which, the first respondent has already paid a sum of Rs.1,75,000/- by way of advance. Thereafter, based on the approval of the 2nd respondent / Insurance Company, the hospital authorities issued a cheque for a sum of Rs.

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1,75,000/- to the first respondent / defacto complainant, which was received by them during the time of operation. The defacto complainant's husband has also given an undertaking that if there is any failure on the part of the Insurance Company, he will ready to repay the amount. Hence, the hospital authorities has given a cheque for a sum of Rs.1,75,000/-, but, subsequently, the approval of the Insurance Company was cancelled. Hence, the petitioners issued a direction to the Bank not to honor the cheque and that the cheque was dishonoured. In such circumstances, this Court is of the view that there is no error on the part of the petitioners' hospital authorities. Hence, this Court is inclined to allow this petition.

7. Accordingly, this Criminal Original Petition is allowed and the proceedings in STC.No.58 of 2021 on the file of the Judicial Magistrate No.II, Usilampatti is hereby quashed. Consequently, the connected Miscellaneous Petition is closed.

12.06.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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To

The Judicial Magistrate No.II, Usilampatti

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A.A.NAKKIRAN, J.

Trp

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