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(3rd case)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.24351 of 2024 (O&M)

Date of decision: 04.12.2024

Ramesh Sanka

... Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Mandeep Singh Bedi, Senior Advocate assisted by
Mr. Vineet Sehgal, Mr. Abhishek Thakur,
Ms. Navjot Kaur & Mr. Navrajdeep Singh, Advocates
for the petitioner.

Mr. Deepak Sabharwal, Addl. AG, Haryana assisted by
Mr. Kiran Pal Singh, AAG, Haryana for respondent No.1.

Mr. Birender Singh Rana, Senior Advocate assisted by
Mr. Prateek Rathee, Mr. Nayandeep Rana, Advocates,
Mr. G.S. Aulakh, Advocate for Mr. Hitesh Malik, Advocate
for the complainant/respondent No.2.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 of the Code of
Criminal Procedure, 1973 (*for short 'Cr.P.C.'*) for quashing of FIR No.1566

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dated 24.06.2023 (P-1), under Sections 120-B, 417, 465, 468 & 471 of the Indian Penal Code, 1860 (*for short 'IPC'*), registered at Police Station Shivaji Nagar, District Gurugram; Final Report dated 27.10.2023, under Section 173 Cr.P.C. (P-5) as well as order dated 08.04.2024 (P-7), passed by learned Judicial Magistrate 1st Class, Gurugram, whereby application filed by the petitioner under Section 239 Cr.P.C. for discharging him was dismissed, along with all consequential proceedings arising therefrom qua the petitioner.

(2) Above FIR was registered on the basis of statement made by *de facto* complainant/respondent No.2-Sanjeev Bindal, Authorized Signatory of M/s Ireo Private Limited (*for short 'Company'*) and which reads as under:-

"I Sanjeev Bindal Authorised person of Ireo Residences Company Private Limited, do hereby submit as under: 1. That FIR No 199/2022 u/s 389,120 (B), 418, 420 of IPC has been lodged at P.S. Sector 65, Gurgaon against accused Ramesh Sanka, Vivek Sehgal Sumit Kumar. 2. Presently you are the Investigation officer and it has come to my knowledge that the accused Ramesh Sanka against whom in another FIR No 58/2020 at P.S. Sector 65, Gurgaon, in which the Case CHI/1512/2020 was listed on 17/4/2023 before court of Sh Vinay Kakran, JMIC, Gurgaon for attendance of accused Ramesh Sanka, the accused has submitted an exemption application through his counsel on the ground of medical certificate given by Hospital at Delhi. 3. That, I have taken certified copy of the application along with medical certificate through my counsel from the Court of Sh. Vinay Kakran, JMIC, Gurgaon. Certified

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Copy attached. 4. That the accused is evading arrest in spite of Hon'ble Supreme Court rejecting his anticipatory bail application and directing the accused to surrender. 5. That Ld. Court of Sh. Manoj Kumar Rana, ACJM, Gurgaon has declared the accused Ramesh Sanka as proclaimed offender. Kindly take necessary action to arrest the accused Ramesh Sanka as the accused may be hiding in Delhi and evading arrest. Thanking You For & on behalf of Ireo Residences Company Private limited."

(3) Contends that from bare reading of the above FIR, no offence is made out against the petitioner and he has been falsely implicated in the present case.

(4) *Per contra*, learned State Counsel, while opposing the prayer, submits that there are specific allegations against the petitioner and prosecution evidence is going on; thus, at this stage, interference by this Court will virtually amount to a parallel trial.

(5) Learned Senior Counsel for the *de facto* complainant/respondent No.2 also opposed the prayer of petitioner while submitting that charges have already been framed and even discharge application of the petitioner stands rejected by learned trial Court.

(6) Heard learned Counsel for the parties and perused the records.

(7) After investigation of the case, report under Section 173 Cr.P.C. was submitted in the matter. Thereafter, the petitioner moved an application for discharge, which was rejected by learned trial Court vide order dated 08.04.2024 (P-7) while observing as under:-

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“4. After appreciating the rival contentions of learned APP assisted by Id. Counsel on behalf of complainant and learned defence counsel as well the facts and circumstances of the present case, it is hereby considered that it is a well settled law that at the time of framing of the charge, the Court is required to see only a prima facie aspect of the case and the Court is not required to delve deep into the merits of the case. The allegations against the applicant/accused are that he was facing trial in case bearing FIR No. 58 dated 30.03.2020 under Sections 409, 381 of IPC PS Sector-65, Gurugram in which he had filed an exemption application and adduced the medical certificate which after investigation was found to be forged and fabricated document prepared at the behest of the applicant/accused in order to cheat and defraud the Id. Court. The main contention of the accused is that he has been falsely implicated in the present case and there is no evidence whatsoever against him. However, this court is of the view that whether the medical certificate adduced by the applicant/accused before the court at the time of moving exemption application was a genuine document and not a forged and fabricated document cannot be ascertained at this stage, rather, the same is a matter of evidence and can be decided only after conclusion of trial. This Court has gone through the documents annexed with the final report and placed reliance by the investigating agency during the course of investigation and thus, in the opinion of this Court, there is sufficient material on record to prosecute the applicant/accused.

7. In the facts of the present case, from the perusal of the documents available on the record, this Court is of the considered view that a prima facie case of commission

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of offence under Sections 417, 465, 468, 471, 120B of Indian Penal Code is duly made out against the accused. As such, the application filed by the applicant/accused under Section 239 CrPC stands dismissed being devoid of merits.”

(8) A perusal of the aforesaid extract reveals that learned trial Court found sufficient material on record and ultimately, charges were framed against the accused on 08.04.2024 in the following manner:-

***“IN THE COURT OF SHRI SAURABH SHARMA,
JUDICIAL MAGISTRATE IST CLASS, GURUGRAM UID
No. HR-0433.***

State v. Ramesh Sanka and others

Charge-sheet

1, Saurabh Sharma, Judicial Magistrate Ist Class, Gurugram do hereby charge you 1.) Ramesh Sanka S/o Esword Sanka R/o M- 1611-B, The Mangoliya, DLF Golf Course Road, Gurugram and 2.) Meenu Sharma W/o Nikhil Kumar R/o 2/157, Sahibabad, Sector-2, Ghaziabad, Kotwali, Uttar Pradesh as under:-

That, you the above named accused person along-with your co-accused hatched a criminal conspiracy to commit the offence of cheating by producing the forged & fabricated documents to claim exemption from personal appearance in the case bearing FIR No. 58 dated 30.03.2020 under Section 381, 409 IPC PS Sector-65, Gurugram in the Court of Sh. Vinay Kakran, Id. Judicial Magistrate First Class, Gurugram and thus, thereby committed an offence punishable under Section 120-B of IPC which is within my cognizance.

Secondly, on the same date & place you the accused above named accused along-with your co-accused hatched criminal conspiracy of cheating in the Court of Sh. Vinay Kakran, Id. Judicial Magistrate First Class, Gurugram by producing forged & fabricated medical documents to claim exemption from personal appearance and thereby committed the offence of cheating punishable under Section 417 IPC r/w Section 120-B of IPC which is within my cognizance.

Thirdly, you the above named accused person forged a medical certificate with intent to commit fraud with the Hon'ble

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Court and thereby committed the offence under Section 465 IPC r/w Section 120-B of IPC which is within my cognizance.

Fourthly, you the above named accused person forged a medical documents intending that it shall be used for the purpose of cheating and thereby committed an offence punishable under Section 468 IPC r/w Section 120-B of IPC, which is within my cognizance.

Fifthly, on the aforesaid date and place you the above named accused persons in prosecution of conspiracy along-with your co-accused you the above named accused person fraudulently & dishonestly used as genuine document (i.c.) medical certificate before the Id. Judicial Magistrate First Class, Gurugram in case titled as State v. Ramesh Sanka bearing FIR No. 58 dated 30.03.2020 under Section 381, 409 IPC PS Sector-65, Gurugram which you knew & had reason to believe to be forged, thus thereby committed an offence punishable under Section 471 IPC r/w Section 120-B of IPC, which is within my cognizance.

Sixthly, you the above named accused persons hatched criminal conspiracy with each other and destroyed the original medical record with intention of screening yourself from punishment and thus, you thereby committed an offence punishable under Section 201 of IPC, which is within my cognizance.

And I hereby direct that you be tried on the aforesaid charge by this court.

*Sd/-
(Saurabh Sharma)
JMFC/GGM/08.04.2024”*

(9) Even this Court has gone through the report under Section 173 Cr.P.C. and, *prima facie*, there is sufficient material against the petitioner to proceed with the trial.

(10) Moreover, as on today, out of 17 prosecution witnesses, 03 have already been examined and trial is going on. Thus, in such a scenario, no ground is made out to interfere with the impugned order dated 08.04.2024 (P-7), passed by learned Judicial Magistrate 1st Class, Gurugram



and/or to quash the FIR in question as well as report under Section 173 Cr.P.C. along with consequential proceedings arising therefrom, qua the petitioner.

(11) In view of the above, there is no option except to dismiss the petition.

(12) Ordered accordingly.

(13) It is clarified that above observations be not construed as an expression of opinion on the merits of the controversy in any manner.

Pending application(s), if any, shall also stand disposed off.

4th December, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No