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

+ CRL.M.C. 1815/2024 & CRL.M.A. 6913/2024 (Stay)

ASIF IQBAL & ANR.

..... Petitioners

Through: Mr. Tahir Ashraf Siddiqui, Mr. N.K. Bhambri, Mr. Ashirvad Kumar Yadav & Mr. Karan Bhambri, Advs.

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP for the State with Insp. Sunny Kumar, P.S. Rajinder Nagar.
Mr. D.K. Yati & Mr. Raunak Gupta, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
14.03.2024

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1. The present petition under Section 482 of the Cr.P.C. seeks quashing of FIR No. 20/2024, under Sections 406/420/34 of the IPC, registered at P.S. Rajinder Nagar.
2. The present FIR has been registered at the instance of respondent no.2 wherein it is alleged that the present petitioners had dishonestly induced him on the pretext of making him the Chairman of India-COMESA Trade Council. It is alleged that the petitioners had represented to him that the said trade council is involved in business interests between India and Africa and it would be thus beneficial for the respondent no. 2 if the latter became the Chairman of the said Council in order for him to improve his



business interest in Africa. It is further stated that for becoming the Chairman of the India-COMESA Trade Council, the respondent no.2 was told that he would be required to pay Rs. 1.05 crores at the rate of Rs. 5 lakhs for each of 21 countries of COMESA. It is further stated that the respondent no. 2/the complainant was assured that the petitioners would take care of all the requirements by virtue of their positions and contacts amongst African countries in order for him becoming Chairman of the said Council. It is further alleged in the complaint that on 25.08.2022, the complainant was formally invited to attend a function at Taj Palace Hotel for assuming the charge of Chairman of India-COMESA Trade Council. It is further alleged that on the said date, he was handed over the certificate of appointment as Chairman of India-COMESA Trade Council, which forms a part of the complaint filed by respondent no.2. It is further alleged that at another function held at Hotel Novotel in Hyderabad on 27.10.2022, the respondent no.2 was again handed over the certificate of appointment, which was carrying an apostille seal of MEA, Govt. of India.

3. It is further alleged that subsequently while respondent no.2 was under the impression that he was officially appointed as the Chairman of the aforementioned Council, he asked regarding his official discharge of duties and responsibilities and to which the petitioners started giving him vague and ambiguous replies and trying to avoid any communication with him. But when the complainant persisted in his efforts, the petitioners finally sent an application form in April, 2023 asking the complainant to fill in the details in order to consider his name for candidature for the chairmanship of the said Council. It is stated that thereafter respondent no.2 realised that he had been cheated and was induced to make payment to the petitioners who had



given the complainant/respondent no. 2 false and fake certificates.

4. Learned counsel appearing on behalf of petitioners submits that the post of Chairman, which the respondent no.2 had been appointed for, was an honorary position in the society run by the petitioners. It is submitted that the present FIR is malafide inasmuch as that after being appointed as the honorary chairman of the said council, respondent no.2/the complainant and petitioners' relationship turned bitter and the complainant/respondent no. 2, in order to put pressure on petitioners to extract money had filed the present FIR. It is submitted that respondent no.2/complainant represented himself as the chairman of the said forum, a position which he himself had accepted. It is further submitted that respondent no.2 while acting in the capacity of honorary Chairman, also appointed his daughter and cousin as members of the society.

5. In terms of para 7 of the order dated 04.03.2024, a Status Report dated 13.03.2024 authored by Insp. Parbhu Dayal, Station House Officer, P.S. Rajinder Nagar has been placed on record, wherein it has been mentioned as under:-

“That during investigation, for the verification of document/certificate, the notice u/s 91 CrPC was sent to Under Secretary, Attestation and Apostille, C.P.V Division, Jawahar Lal Nehru Bhavan, Ministry of External Affairs, Delhi and they initially vide their letter no 01/4119/01/2024 Dt 29/02/24 replied that "The attached document which has been issued by Indo Africa Trade Council and bears the seal/stamp (Pre-authentication) of Indo Latin American Chamber of Commerce is contrary to the details mentioned in the apostille sticker No DLND0032721022 dated 31/08/2022. Therefore, the document originally apostilled to Mr Venkata Naryana Reddy is different from the attached one". However, they provide corrigendum to their previous reply vide letter no 01/4119/01/2024 Dt 12/03/24 mentioning there in that "This office had previously raised doubts about the authenticity of the said document. But on further



inquiry, it is found that a bunch of documents which were stamped by SDM, Sarita Vihar were given to one Data Entry Operator (DEO) on 31 Aug 2022 for making entries for stickers. The document issued to Mr Venkata Naryana Reddy was amongst the previous bunch. But due to clerical error data entry under "bears the seal/stamp of " was typed incorrectly as SDM, Sarita Vihar instead of Executive secretary, Indo Latin American Chamber of Commerce. It is therefore informed that the document issued to Mr Venkata Naryana Reddy was attested by this office."

10. That during investigation, for the verification and authenticity of India-COMESA Council a mail was sent to **Mrs Dev Haman, COMESA Secretariat**, Lusaka, Zambia and it was replied by them that " The COMESA is disturbed that its name, logo and reputation has been abused by criminal elements in fraudulent activity and wishes to affirm its confidence in your offices ability to undertake a full investigation and bring those fraud responsible for this impropriety to book. COMESA has never advertised or participated in any purported India-COMESA Council Chairmen appointment or issuance of an alleged certificate to Mr Venkata Naryana Reddy. **Whatever was allegedly done to the complainant was done illegally without the knowledge or involvement or consent of COMESA.** As an organization, COMESA only has memorandum of understanding with the Republic of India, not with India Africa Trade Council. Additionally, COMESA has never had any existing vacancy or post of Chairman of an India -COMESA Council. **Moreover, Dr Asif Iqbal and Mr N.S.Venktash (Petitioners herein) are unknown to COMESA.**"

11. That during investigation, for the verification and authenticity of India-COMESA Council a mail was sent to **Mrs Chileshe M Kapwepwe**, Secretary General. COMESA Secretariat, Lusaka, Zambia and it was replied by them that "COMESA wishes to categorically disassociate itself from the fraud that has occurred as it has never advertised or even been involved in the alleged impugned position and appointment of Chairman of the India -COMESA Trade Council. **The usage of the COMESA name and fake logo was done outside the knowledge, consent and involvement of COMESA and hence is illegal and needs to be fully investigated** and prosecuted as such by the authorities of the Republic of India".

12. That, during investigation notice u/s 91 CrPC was sent to **DGFT, Ministry of Commerce, Vanijya Bhavan Delhi** and it was replied by them that " No such organization namely India Africa Trade Council is



registered with Directorate General of Foreign Trade (DGFT), Vanijya Bhavan, New Delhi. The DGFT enlist/authorizes various trade chambers/associations/agencies/council etc for the insurance of certificate origin (COO) for preferential purposes and also for RCMC (Registration cum manufacture certificate). **However, the India Africa Trade Council is not authorised for issuance of any such certificate.”**

13. That, for the verification of document/certificate, information was sought from the **Ethiopian Embassy**, Satya Marg, Channkyapuri Delhi and it was replied by them that ‘**In this connection we would like to inform that neither the former Ambassador Mr. Tizita Mulugeta Yiman nor the embassy has issued any such document i.e. “Certificate of appointment” to anyone.”**

6. In view of the aforesaid, this Court is of the considered opinion that the aforesaid facts need proper investigation and inquiry. The petitioners are at liberty to place on record the documents before the Investigating Officer as and when called by them, for joining investigation.

7. The scope of present jurisdiction is limited and this Court cannot enter into a disputed question of facts at this stage.

8. In view of the above, the present petition is dismissed and disposed of accordingly.

9. Pending application(s), if any, also stands disposed of.

AMIT SHARMA, J

MARCH 14, 2024/nk