



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.761 OF 2022

SATISH
RAMCHANDRA
SANGAR

1. Vidyadhar Prabhakar Sarfare
2. Anjali Vidyadhar Sarfare
3. Deepali Vivek Chinchole ...Petitioners

Versus

1. The State of Maharashtra
2. Anupama Datt Mane ...Respondents

Mr.Niranjan Mundargi a/w Mr.Harshad Sathe and Mr.Akshay Petkar – Advocates for Petitioners.

Mr.B.V.Holambe-Patil – APP for Respondent No.1 – State.

Mr.Shreyas S. Adyanthya – Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL &
S.M.MODAK, JJ.**

DATE : 4th FEBRUARY 2025

ORAL ORDER :- (PER SARANG V. KOTWAL, J.)

1. This is a Writ Petition for quashing of the FIR lodged vide C.R. No.98 of 2020 at Bhosari Police Station and the consequent charge-sheet arising out of the same.

2. While issuing notice to the Respondent No.2 – Complainant, this Court vide the order dated 3rd July 2023, had

observed, that the matter shall be taken up for final disposal at at the admission stage, particularly having regard to the Civil Suit initiated by the informant for recovery of the amount of Rs.53,11,652/- (Rupees Fifty Three Lakh Eleven Thousand Six Hundred Fifty Two) being Special Civil Suit No.1161 of 2018. Pursuant to the said order, the learned counsel for the Respondent No.2 is present before the Court. We have, therefore, heard the parties for finally deciding this Writ Petition.

3. The FIR is lodged by the Respondent No.2 on 22nd February 2020. She has stated, that she was a cancer consultant and at the time of registration of the FIR, was working as consultant/surgeon with Rubi Hall Clinic. Since 2003, she was attached with Sant Dnyaneshwar Hospital Private Limited and Sant Dnyaneshwar Medical Foundation, Heera Plaza, Pune-Nashik Road, as surgeon and consultant. It was a multi-speciality hospital. The FIR mentions that the present Petitioners were connected with M/s.Accord Private Limited and they were managing the hospital at the time of lodging the F.I.R.. It is mentioned in the F.I.R., that the Petitioner-Vidyadhar was the president and director, Anjali was the secretary and the Petitioner Deepali was the treasurer of Satish Sangar

the Medical Foundation and director of Accord Mediplus. The informant was treating the patients of the said hospital for cancer and breast related ailments. Initially, she used to get her dues on time in respect of the bills submitted by her. After some time, there used to be some delay in getting the payment. She discussed this fact with the Board of Directors. She came to know that the said institute was in financial difficulty and therefore, the payments were not made regularly.

The FIR mentions that since 2003 upto 2017, the Director Board controlling the hospital consisted of Dr.Jawahar Bhalgat, Dr.Vilas Sable, Dr.Anil Khade, Dr.Suhas Kamble, Dr.Anu Gaikwad, Dr.Vinayak Mane and Dr.Rohidas Aalhat. The then Board of Directors requested for financial aid from the informant herself. Therefore, the informant gave substantial amount to help the institute. She has given the details of the financial aid extended by her between 25th March 2013 to 28th August 2015 to the tune of Rs.24,00,000/- (Rupees Twenty Four Lakh). She has specifically stated in the FIR, that the said amount was not returned by the earlier Board of Directors. The Board of Directors handed over the control of the hospital to the Petitioners' company. The Petitioners were part of the Board of Directors from the year 2017. It is her case that, apart from Satish Sangar

this financial aid of Rs.24,00,000/- (Rupees Twenty Four Lakh) which was payable to her, the hospital did not pay her dues of Rs.15,16,651/- (Rupees Fifteen Lakh Sixteen Thousand Six Hundred Fifty One). Thus, the total amount of Rs.39,16,651/- (Rupees Thirty Nine Lakh Sixteen Thousand Six Hundred Fifty One) was not paid to her.

It is her case, that the new Board of Directors had promised to return that amount. For that purpose, one meeting was held on 24th August 2017. At that time, the old Board of Directors had told the Petitioners to pay the dues of the informant and other doctors. According to her, the Petitioners had accepted that responsibility. There is a reference to an agreement between the old Board of Directors and the new Directors. However, the documents pertaining to those agreements were not given to the informant. It is her case, that the present Petitioners deliberately and in collusion with each other, did not return her amount. On these allegations, the FIR is lodged. The investigation was carried out and the charge-sheet was filed.

4. Learned counsel for the Petitioners submitted, that the FIR itself mentions that the present Petitioners took over the control of those hospitals in the year 2017. Her specific

Satish Sangar

case is, that the financial aid was given by the informant between 2013-2015. Her dues for treating the patients to the tune of Rs.15,16,651/- (Rupees Fifteen Lakh Sixteen Thousand Six Hundred Fifty One) were also demanded by her from the old Board of Directors. All this had taken place before the present Petitioners took over the control of the hospital and therefore, they cannot be said to have committed any offence. It is purely a commercial transaction for which the informant has already instituted a Special Civil Suit No.1161 of 2018 before the Civil Judge Senior Division–Pune. The informant had instituted that suit on 14th August 2018. She has filed the present FIR on 22nd February 2020 and yet, there is absolutely no reference to the said suit in this F.I.R.

He further submitted, that no offence alleged against any of the Petitioners is made out. The continuation of the proceedings is an abuse of the process of law and therefore, the entire proceedings are required to be quashed and set aside. The FIR is lodged under Sections 418, 420 read with 34 of the Indian Penal Code, 1860 (“**IPC**”) and the charge-sheet is also filed under the same Sections. None of the ingredients of any of the Sections are made out. He submitted, that one of the members of the Board of Directors Dr.Vinayak Mane is her Satish Sangar

husband. He submitted, that therefore, she has deliberately not arraigned the earlier Board of Directors as accused in this case.

5. Learned counsel for the Respondent No.2 submitted, that in a given case, there could be civil proceedings as well as criminal proceedings maintainable at the same time. He referred to a judgment of the Hon'ble Supreme Court in case of *Vishnu Dutt Sharma V/s. Daya Sapra (Smt)*¹.

6. He submitted, that there are Whats-App chats which show that the informant was constantly demanding her dues from the present Board of Directors and the Petitioner No.3. They had promised to return her money. He, therefore, submitted that the offence of cheating is made out because they had promised to make her director in that hospital. But, no steps were taken in that behalf.

7. Learned APP supported the submissions of learned counsel for the Respondent No.2.

8. We have considered these submissions and we have perused the charge-sheet. The charge-sheet contains the statements of one Swapnil Bhalgat whose dues were also not paid by the said hospital. He was working with the said hospital from 2011 to 2018. Similar is the statement of

¹ (2009) 13 Supreme Court Cases 729
Satish Sangar

Dr.Jhaade. She was working in the hospital between 2015-2016. Even, her dues were not paid.

The charge-sheet thereafter contains the bills and details of the treatment given by the informant to her patients. There are Whats-App messages between the informant and the Petitioner No.3 wherein there are indications that the informant was asking for her dues. Those chats are from the year 2017-2018.

There is a statement of Rohidas Aalhat who was one of the members of the Board of Directors from 2003 to 2017. According to him, the present Petitioners had taken over the hospital since 25th January 2017 through a share purchase agreement, and that the new Board of Directors was expected to pay the dues of the doctors. Rohidas Aalhat himself was a doctor and he had around Rs.25,00,000 (Rupees Twenty Five Lakh) as his dues which were not paid.

The statement of Dr.Vinayak Mane is recorded. According to him, he had invested Rs.51,00,000 (Rupees Fifty One Lakh) when the hospital started. He was associated with the hospital from 2003 to 2017. His dues were not paid.

9. It can be seen, that the hospital ran into financial

difficulties during the tenure of the earlier Board of Directors. All these issues were from the period, when the earlier Board of Directors were in control and therefore, there is a substance in the submissions, that the Petitioners had taken over the control of the hospital afterwards. The dues payable to the Doctors were outstanding during the tenure of the earlier Board of Directors. At that point of time, the present Petitioners had nothing to do with the management of the hospital. They assumed the charge only after 2017 and all these allegations about non-payment of dues and about financial help was pertaining to the years prior to 2017.

10. Similarly, another submission of the learned counsel for the Petitioners deserves consideration is, about filing of Special Civil Suit No.1161 of 2018 before the Civil Judge Senior Division–Pune. This suit was instituted on 14th August 2018 i.e. much prior to the registration of FIR. In the said suit, the amount of Rs.53,11,652/- (Rupees Fifty Three Lakh Eleven Thousand Six Hundred Fifty Two) including the interest was demanded by the First-Informant. There is a reference to her financial aid of Rs.24,00,000/- (Rupees Twenty Four Lakh) and her dues on professional charges to the

tune of Rs.15,16,651/- (Rupees Fifteen Lakh Sixteen Thousand Six Hundred Fifty One). Thus, it is a clear commercial civil suit between the parties. The Petitioners had not made any inducement before the dues even arose. None of the ingredients of Section 415 punishable with 420 of IPC is made out. There is no force in the submissions of learned counsel for the Respondent No.2, that in the present case, the civil suit and the criminal proceedings can go on simultaneously. The reliance placed on ***Vishnu Dutt Sharma*** case does not help the Respondent No.2 in the facts of the present case as we do not find any criminality whatsoever involved in the entire transaction and in the allegations made against the present Petitioners. It is purely a civil dispute which is pending before the appropriate civil forum.

11. No criminal offence is made out against any of the Petitioners. Therefore, the continuation of the criminal proceedings will be an abuse of process of law. Hence, those are liable to be quashed and set aside. Hence, following order:-

ORDER

- (i) The FIR No.98 of 2020 registered with Bhosari Police Station and the consequent proceedings arising out of the same, are quashed and set aside,

qua the Petitioners.

- (iii) The Petition stands disposed of in the aforesaid terms.

(S.M.MODAK, J.)

(SARANG V. KOTWAL, J.)