



[2024:RJ-JD:52439]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 267/2013

Dr. Ashok Kumar S/o Shri Navranglal Agrawal through Goyal
Hospital & Research Centre Pvt. Ltd. 961/3 Residency Road,
Jodhpur (Raj.)

----Petitioner

Versus

1. The State of Rajasthan
2. Shri Nand Lal Vyas S/o Shri Madanlal Vyas R/o through late
Shri Prakash Narayan Purohit Baniyawada, Inside Jalore Gate,
Jodhpur (Raj.)

----Respondent

Connected With

S.B. Criminal Misc(Pet.) No. 260/2013

1. Dr.anand Goyal S/o Satishchand Goyal, Director Goyal
Hospital & Research Centre Pvt. Ltd. 961/3 Residency Road,
Jodhpur (Raj.)
2. Smt. Subhashini Goyal W/o Dr. Anand Goyal Director, Goyal
Hospital & Research Centre Pvt. Ltd. 961/3 Residency Road,
Jodhpur (Raj.)

----Petitioner

Versus

1. The State of Rajasthan
2. Shri Nand Lal Vyas S/o Shri Madanlal Vyas R/o through late
Shri Prakash Narayan Purohit Baniyawada, Inside Jalore Gate,
Jodhpur (Raj.)

----Respondent

S.B. Criminal Misc(Pet.) No. 268/2013

Dr.dhruv Sharma S/o Shri Dharmendra Sharma, Cardiologist,
Escort Heart Centre, New Delhi at present Goyal Hospital &
Research Centre Pvt. Ltd. 961/3 Residency Road, Jodhpur (Raj.)

----Petitioner

Versus



- 1. The State of Rajasthan
- 2. Shri Nand Lal Vyas S/o Shri Madanlal Vyas R/o through late Shri Prakash Narayan Purohit Baniyawada, Inside Jalore Gate, Jodhpur (Raj.)

-----Respondent

S.B. Criminal Misc(Pet.) No. 680/2013

- 1. Dr.anand Goyal S/o Satishchand Goyal, Director Goyal Hospital & Research Centre Pvt. Ltd. 961/3 Residency Road, Jodhpur (Raj.)
- 2. Smt. Subhashini Goyal W/o Dr. Anand Goyal Director, Goyal Hospital & Research Centre Pvt. Ltd. 961/3 Residency Road, Jodhpur (Raj.)

-----Petitioner

Versus

- 1. The State of Rajasthan
- 2. Shri Nand Lal Vyas S/o Shri Madanlal Vyas R/o through late Shri Prakash Narayan Purohit Baniyawada, Inside Jalore Gate, Jodhpur (Raj.)

For Petitioner(s)	:	Mr. Mahesh Thanvi Mr. Nishant Bora
For Respondent(s)	:	Mr. Vikram Singh Rajpurohit, Dy.G.A. Mr. Nikhil Dungawat

HON'BLE MR. JUSTICE FARJAND ALI

Order

ORDER PRONOUNCED ON ::: /12/2024
ORDER RESERVED ON ::: 21/11/2024
BY THE COURT:-

- 1. The instant petition under Section 482 of the Code of Criminal Procedure (Cr.P.C.) has been filed by the petitioners



challenging the order dated 19.01.2013, passed by the learned Additional Sessions Judge No.2, Jodhpur Metropolitan through a common order arising out of different criminal revision petitions No. 72/2009 and 73 /2009. By the said order, the learned revisional court dismissed the revision petitions filed by the petitioners while affirming the order of Cognizance dated 19.04.2008 passed by the learned Judicial Magistrate, Jodhpur City, in criminal Complaint No. 54/2007 against the petitioners for offences punishable under Sections 420, 467, 468, 471, and 120B of the Indian Penal Code (IPC).

Facts

2. It is apposite to delineate the factual matrix of the case in a concise manner as follows:

2.1 On 14.08.2007, the complainant respondent no.2, Nand Lal Vyas, filed a complaint before the learned Civil Judge (JD)-cum-Judicial Magistrate, Jodhpur City, alleging that his brother-in-law, Shri Prakash Narayan Purohit, was admitted to Escorts Goyal Heart Centre, jodhpur on 03.10.2006, and he passed away during the course of his treatment. Post his demise, the hospital administration refused to provide complete medical records, including pathological reports, despite repeated requests.

2.2. It was further contended by the complainant, that when the treatment records and reports were provided on 29.11.2006, the complainant identified discrepancies in the pathology reports more particularly regarding the inconsistency with the signatures so appended over the pathological reports. That the complainant got the same examined by a private handwriting expert who in turn



suggested that the signatures were found to be appended by different persons over the reports.

2.3 Further more it was alleged in the complaint that the hospital administration, in collusion with the treating doctor, allegedly generated false bills based on fabricated pathological reports. Despite knowing the reports were false, the doctors prescribed a flawed medical treatment plan, which ultimately proved fatal for the deceased. The complainant was charged a total of ₹22,040 for the pathological reports and ₹88,815 for the entire treatment and medical expenses, all of which are claimed to be based on false and fabricated reports and actions.

3. The learned trial court in support of the complaint filed by the complainant, proceeded to initiate the process of taking cognizance by recording the statements under Sections 200 and 202 of the Cr. P. C., of the complainant Nand Lal Vyas as CW-1 and Natwar Vyas as CW -2, whereafter took cognizance of the offences vide order dated 19.04.2008 as mentioned *supra* and thereafter, issued process against petitioners through bailable warrant.

Submissions

4. Learned counsel for the petitioners submits that the petitioners, as directors of Goyal Hospital and Research Centre Pvt. Ltd., cannot be held vicariously liable for alleged criminal acts without establishing specific culpability.

5. Further it was argued that, the Rajasthan Medical Council's Penal and Ethical Committee found no mala fide intentions or misconduct by the hospital as well as with respect to the petitioner Dr. Ashok Kumar.. It was further submitted that the allegations of



fabricating or conducting unauthorized pathological tests are baseless. The 27 pathological reports in question were prepared by authorized personnel under the supervision of Dr. Ashok Kumar, a qualified pathologist. There is no evidence to support the claim that the reports are false or forged.

6. The deceased, Mr. Prakash Narayan Purohit, was admitted on October 3, 2006, with critical cardiac conditions, including a heart block. Contrary to the complainant's claim, the patient left M.G. Hospital against medical advice and was not referred. He received the best possible treatment, including necessary diagnostic tests, and despite all efforts, he succumbed to his illness, with no negligence attributable to the petitioners or hospital staff.

7. It was further argued that the reliance on a private handwriting expert's report alleging forgery lacks legal validity, as expert opinions must come from a government-authorized expert to be admissible.

8. Learned counsel for petitioners had raised the concern regarding locus of the petitioner as the complainant, being the deceased's brother-in-law, is acting with ulterior motives, as no immediate close family members have raised any objections to this regard.

9. The complainant's allegations about unauthorized personnel conducting tests and the hospital charging Rs. 22,040 for the reports are unfounded. Pathological tests are a routine part of medical treatment, and the complainant, along with other family members, was aware of the tests during the hospitalization but raised no objections at the time.



10. This highlights the malicious intent behind the complaint, making these proceedings an abuse of the legal process and the same deserves to be quashed.

11. On the contrary Learned counsel appearing on behalf of the respondent submits that the orders passed by the Learned trial court as well as by the revisional court does not suffers from any illegality infirmity or impropriety therefore the instant misc. Petitions deserves to be dismissed. The concurrent finding of the both the courts are holding the correct legal field and the same shall not be interfered with.

12. Heard learned counsel for the petitioners as well as the counsel for the private respondent and State. Perused the relevant material on record.

13. Before proceeding further it is necessary to quote Lord Denning observation made in **Roe and Woolley v. Minister of Health (1954) 2 QB 66, wherein he said that:**

" It is so easy to be wise after the event and to condemn as negligence that which was only a misadventure. We ought to be on our guard against it, especially in cases against hospitals and doctors. Medical science has conferred great benefits on mankind but these benefits are attended by unavoidable risks. Every surgical operation is attended by risks. We cannot take the benefits without taking the risks. Every advance in technique is also attended by risks. Doctors, like the rest of us, have to learn by experience; and experience often teaches in a hard way."

Adjudication

Cognizance serves as a crucial gateway to the judicial process, ensuring that courts engage only when a case presents a



clear and sufficient legal foundation for proceeding. In cases where allegations are raised against Doctors' or against the Hospital administration for forging pathology reports and appending signatures by individuals other than the doctor, the process of taking cognizance requires meticulous judicial scrutiny, especially when the doctor has not refuted the authenticity of the signatures.

14. However, courts must exercise extreme caution to avoid being influenced by mere bald or motivated allegations unsupported by substantive evidence. Invoking presumptions under the guise of Section 114 of the Indian Evidence Act, 1872, at the stage of taking cognizance, is particularly fraught with risks. This provision allows courts to presume certain facts based on common experience and logical inference, but employing such presumptions prematurely without any solid evidentiary backing can lead to serious injustices. Relying on general presumptions at this stage, particularly in medico-legal cases, can unjustly call into question the professional competency and integrity of medical practitioners and institutions.

15. In medico-legal matters, where the stakes often involve not just reputations but also public trust in healthcare systems, the consequences of presumptive reasoning are magnified. The courts must refrain from applying the theory of general presumption in such cases until clear, scientific, and legally admissible evidence is presented to substantiate the allegations. Presumptions, when invoked prematurely, risk overshadowing the objective evaluation of facts and can lead to unnecessary stigmatization of



professionals whose actions may be entirely lawful and appropriate.

16. Judicial restraint is, therefore, paramount at the stage of cognizance in medico-legal cases. Courts must ensure that decisions to proceed are grounded in demonstrable and credible evidence, such as conclusive findings from forensic or scientific tests. This approach prevents misuse of Section 114, which, if misapplied, can undermine the foundational principles of fairness and due process.

17. By adopting this measured approach, the judiciary not only safeguards the reputations of individuals and institutions from unwarranted harm but also reinforces public confidence in both the legal and medical systems. It ensures that only cases with genuine merit proceed to trial, thereby maintaining the sanctity of the judicial process.

18. In the present case, the prevailing circumstances unequivocally demonstrate that the patient was admitted to a hospital where multiple diagnostic and pathological reports were prepared under the administration and supervision of the hospital itself. To assert that minor discrepancies in the style or tenor of a signature could entirely invalidate the authenticity or reliability of such reports is both implausible and detached from the extensive processes involved in their preparation.

19. It is crucial to underline that no reasonable assumption supports the contention that the medical staff, in collusion with the hospital administration, acted with such deliberate precision and intent as to fabricate pathological reports for administering



false or misguided treatment. The allegation, devoid of substantive evidence, fails to align with the factual framework of the case.

20. It is quite established rather a conclusive practice that Pathological reports are generated through advanced diagnostic tools and techniques, which are designed to ensure precision, minimize human error, and eliminate subjective bias. These include sophisticated methodologies such as immunohistochemistry (IHC) for tissue analysis, polymerase chain reaction (PCR) for genetic or infectious detection, automated haematology and biochemistry analyzers for blood tests, enzyme-linked immunosorbent assay (ELISA) for protein quantification, and radiological imaging techniques like MRI and CT scans. Such methods are governed by strict protocols, quality controls, and automated systems, leaving negligible room for human interference or intentional manipulation.

21. Additionally, these reports are prepared under the oversight of certified medical professionals who adhere to ethical and procedural standards. The mere allegation of a signature discrepancy does not negate the integrity of findings derived from these scientifically validated processes. It is also significant that the individual responsible for verifying and signing the reports has not disputed the signatures or claimed any forgery. This absence of contestation further diminishes the credibility of the allegations.

22. Even if there were differences in the style or appearance of the signatures, such inconsistencies absent conclusive proof of falsification cannot suffice to render the reports forged or



fabricated. Pathological findings, central to medical treatment, result from the collective efforts of medical experts, technicians, and automated systems. Allegations of intentional falsification, particularly in the absence of credible evidence, are untenable in light of the circumstances.

23. Furthermore, the findings of the Penal and Ethical Committee of the Rajasthan Medical Council, a panel of experts, reinforce this position. The committee found no evidence of mala fide intent or professional misconduct on the part of the hospital or the petitioner, Dr. Ashok Kumar. This expert opinion further underscores the fallacy of the allegations, which lack factual and evidentiary support.

24. Thus, the pathological reports, rooted in advanced scientific techniques and professional oversight, cannot be dismissed on the basis of alleged signature discrepancies. Such isolated irregularities fail to undermine the credibility of the diagnostic process or substantiate a broader claim of forgery or manipulation. The allegations do not stand, given the prevailing circumstances of the case, and must be viewed in the context of the comprehensive medical treatment provided, where authenticity and accuracy remain unimpeached unless conclusively proven otherwise.

25. The principle allegation dwelling in the application was with regard to making false pathological reports That the it is apposite to reproduce the relevant section as under:-

The allegations in the complaint and the provisions under Sections 420, 467, 468, 471, and 120B of the Indian Penal Code



(IPC) need to be carefully examined to determine whether the charges are sustainable. Each of these sections requires specific elements to be proven. The Supreme Court has elaborately discussed the law relating to the relevant penal provisions of the Indian Penal Code in ***Md. Ibrahim & Ors. V. State of Bihar & Anr., (2010) 4 SCC 405***. This Court is aptly guided by the principles laid down therein.

The essential Ingredients of the alleged offences must be meticulously analyzed to determine whether a prima facie case is made out against the accused.

Section 420 IPC penalizes cheating and dishonest inducement to deliver property. To invoke this provision, it must be demonstrated that (i) the accused deceived the complainant, (ii) fraudulently induced them to deliver property or undertake an act they otherwise would not have, and (iii) such deception caused or was likely to cause harm to body, mind, reputation, or property. The test of *mens rea* is central to this analysis, ensuring the accused acted with fraudulent intent.

Section 467 IPC, pertaining to the forgery of valuable securities, wills, or other documents of significant legal consequence, necessitates proof that the accused made a false document with the deliberate intent to deceive. In light of Section 463, forgery involves the making of a false document with the intent to cause damage or support a fraudulent claim. This requires satisfaction of the criteria under Section 464, which delineates three distinct ways a false document can be created:



- (i) Dishonestly executing a document purporting to be that of another person,
- (ii) Materially altering a document without authority, or
- (iii) Obtaining a document through deception or from a person incapable of understanding its nature.

Section 471 IPC penalizes the use of a forged document as genuine. It is incumbent upon the prosecution to establish that the accused knew or had reason to believe the document was forged and nonetheless used it fraudulently or dishonestly.

Section 468 IPC, a specific subset of forgery, targets acts committed with the intention of cheating. This requires evidence of the accused having forged a document to deceive or gain an unfair advantage.

Section 120B IPC, addressing criminal conspiracy, demands evidence of an agreement between two or more individuals to commit an unlawful act or to use unlawful means to achieve a lawful act. The conspiratorial agreement must precede the commission of the offense.

26. In the case at hand, the allegations center around the alleged fabrication of pathological reports purportedly employed to facilitate false treatment. It is imperative to emphasize that the existence of a 'false document' constitutes a *sine qua non* for invocation of Sections 467, 468, and 471 of the Indian Penal Code (IPC). However, a meticulous examination of the record reveals that no competent authority or the purported author of the pathological reports has questioned their authenticity. Furthermore, the absence of corroborative evidence to



substantiate the claims of falsification critically weakens the foundation of the prosecution's case.

Analyzing the allegations vis-à-vis the law, this can be summarized that mere execution of a document; the pathological report by the accused, even assuming it was not signed by the same person whose name was inscribed there at the bottom of the slip, does not inherently amount to the creation of a "false document" as per Section 464 IPC unless coupled with dishonesty or fraudulence on the part of the accused and that too with intent to cheat the complainant. Similarly, for offenses under sections 467 and 471, the element of intent to deceive must be unequivocally established.

The jurisprudential cornerstone for establishing culpability under these statutory provisions lies in unequivocal evidence demonstrating deliberate deceit, fraudulent intent, and the creation or utilization of a 'false document' as defined under Section 464 IPC. In the absence of such evidence, the allegations remain speculative and unsubstantiated. Consequently, it is incumbent upon the judiciary to exercise heightened scrutiny and circumspection before attributing criminal culpability under the aforementioned sections.

27. Furthermore, the case presents a perplexing scenario that raises significant concerns regarding the quality and credibility of institutional practices. It is perplexing as to why a reputable healthcare institution of such significant stature, located within a



metropolitan city, would produce a report of such questionable quality. What tangible benefit could be derived from generating such a document?

It is reasonably inferred that the prescribed course of medical treatment, while not solely reliant upon, is influenced to some extent by the findings of a pathology report. Acting upon a report that may be inaccurate or misleading could potentially lead to unintended and adverse consequences.

A prudent individual would not engage in such conduct. Given the hospital's esteemed reputation and the influx of patients seeking treatment, it is puzzling as to why such a lapse in quality control would occur.

Typically, within institutional settings, printed forms bear the name of the head of the respective unit or department. While numerous technicians may be involved in the process, it is customary for the report to be signed by the individual who oversaw and directed the preparation of the report. In the present case, the prosecution's assertion that the report should be signed by a specific individual, as per the agreed-upon conditions, does not align with standard practices.

28. In light of the foregoing, it becomes evident that the learned trial court, while taking cognizance, was obligated to evaluate the basic ingredients of the offence alleged, which are conspicuously absent in the present case. The very foundation of the cognizance



order appears to rest on a mere presumption, rather than on any substantive or credible evidence.

29. In cases of this nature, the Magistrate is duty-bound to record a substantial degree of satisfaction regarding the alleged falsification of the pathological reports. This satisfaction must be based on clear and rebuttable findings rather than speculative inferences or generalized presumptions. The absence of such a thorough evaluation and reasoning undermines the legitimacy of proceeding further in the matter.

30. The orders, as it stands, does not demonstrate that the learned Magistrate as well as the revisional court which affirming the order, undertook a comprehensive examination of whether the allegations align with the essential elements of the offence. Although this court is conscious of the fact that the comprehensive examination at the stage of cognizance is not warranted but the cases where criminal complaint is against the Doctors and the health care institutions then the degree of examination and process of evaluation must on high pedestal where such allegations like in the present case so levelled might be the product of afterthought resentment of affairs prevailed post incident of an unfavourable human expectation.

31. The courts in such circumstances, should not dwell upon the reliance on mere presumptions, without any corroborative material or clear rebuttal findings. This might result in a flawed basis for initiating the judicial process which seems to have happened in the present case.



32. Therefore, the deviation from established judicial principles necessitates a critical re-evaluation to ensure that the decision to take cognizance is not only procedurally sound but also substantiated by the requisite legal framework and material available before the Court for taking cognizance.

33. Thus, in view of the discussions made, this court is of the firm view that the finding as well as conclusion arrived by the both the learned Courts for taking cognizance and affirming the same are unsustainable in the eyes of the law and thus, the Misc. Petitions deserve to be accepted.

34. Accordingly, the instant Misc. Petitions are allowed. The orders under assail dated 19.04.2008 and 19.01.2013 passed by the learned Judicial Magistrate, Jodhpur City and learned Addl. Sessions Judge No.2, Jodhpur Metropolitan are hereby quashed and set aside. The petitioners are exonerated from the charges.

(FARJAND ALI),J

308-Mamta/-

,