

KABC170009962024



**IN THE COURT OF LXXXVI ADDL. CITY CIVIL & SESSIONS JUDGE,
COMMERCIAL COURT, BENGALURU (CCH-87)**

Present: Sri Jithendranath C.S., B.A., LL.M.,
LXXXVI ADDL. CITY CIVIL & SESSIONS JUDGE
BENGALURU.

COM. CRL. MISC. No. 1916/2024

Dated on this the 22nd day of June 2024

Complainant

Mr. Ravikumar Rajendraprasad,
Aged about 49 years,
S/o Mr. Rajendraprasad
Residing at A-602, Confident Aquila,
Yamere Village,
Sarjapur Road,
Bengaluru - 562 125
Ph no: +91 9880175670

(Party-in-Person)

// versus //

Accused

1. M/S Biofi Medical Healthcare India
Private Limited
Located at Plot 208 Bommasandra
Jigani Industrial Area,
Bommasandra-Jigini Link Road,
Bengaluru — 560 105
2. Mr. Pauldurai Shanmugam,
S/o. Shanmugam
Aged About 47 Years
Former -CTO & Co-Founder @ BIOFI
3/61, Thirumalapuram,
Ramanathapura,

Sivagiri, Tirunelveli,
Tamilnadu -627760
Email ID: PAULDURAI@GMAIL.COM
PHONE NO: +91 9731500776

3.Sri. Girimaji Sathyanarayana Rao Ravi
S/o. Girimail Venkat Rao
Sathyanarayana Rao,
Aged About 67 Years
Former - MD @ BIOFI
Residing at #1629, 31st Cross,
18th Main, Manjunatha Temple,
BSK 2nd Stage,
Bengaluru —560 070
Email : RAVIGIRIMAJI@GMAIL.COM
PHONE No: +91 9980012455 4,

4.Shankar Suryanarayan,
S/o. T. Suryanarayan,
Aged About 55 Years
#319, 6th Main 3rd Cross,
NGEF Layout, Sadananda Nagar
Bengaluru — 560 038
E-mail : RAKNAHS1@GMAIL.com
PHONE NO: +91 9900219527

5.D. N. Prahlad
S/O. D. Nagarajachar,
Aged About 70 Years
Former CEO @ BIOFI
#1, Setlur Street, Langford Town,
Bengaluru — 560 025
EMAIL : DNPRAHLAD@GMAIL.COM
PHONE NO: +91 9845017988

6.R. Ambarish
S/o Hedathale Ramasastry,
Aged About 69 Years

Former CEO @ BIOFI
R/at Deauville Apartments,
#19, Church Street,
Bengaluru — 560 001
PHONE NO: +91 9880570417
EMAIL ID: RAMBARISH@GMAIL.COM

(Exparte)

ORDERS ON MAINTAINABILITY

The complainant named above has filed this Memorandum of complaint under Section 340 of Cr.P.C., 1973 r/w Sec. 195 of Cr.P.C. and Sec. 193 & 34 of the IPC requesting with the following prayer.

i) To conduct an inquiry under Section 340 of CrPC, examining the documentary proof in respect of the perjury committed by the accused and in exercise of the powers under Section 195(1)(b) to initiate proceedings against the person(s) responsible for providing false statements, fabrication of documents with deliberate, conscious nature and obstructed the administration of justice. I humbly request the Hon'ble Court to pass the necessary Orders under section 340(1)(a) and further, 340(1)(c) to jurisdictional magistrate court to take cognizance under Section 193 of the IPC.

ii) I pray to this Hon'ble Court to exercise 340(1) (b) make a complaint thereof in writing its findings of the false statements, fabrication of documents with the intention of obtaining a stay order, destroying all evidence and selling most of the assets during the court proceedings in WP15170/2021 in the Hon'ble High Court of Karnataka.

iii) I pray to this Hon'ble Court to Pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. According to the complainant, the accused persons deliberately made false statement in Com. A.A.No.197/2021 on the file of this court and therefore they are held liable for perjury.

3. Having registered a Criminal Misc. case, an inquiry was conducted. The complainant examined himself as PW1 by filing his affidavit and also marked documents as Ex.P1 to Ex.P44.

4. Heard both sides.

5. The following points arise for court's consideration;

1. Whether the complainant has made out prima facie case to proceed against the accused persons ?

2.What order ?

6. My answer to the above points are as under;

Point No.1 : In the **Negative**

Point No.2 : As per the final order for the following ;

REASONS

7. Point No.1: The complainant - Mr. Ravikumar Rajendraprasad had filed a petition Under Section 9 of the Arbitration and Conciliation Act, 1996 in Com. A.A. No.197/2021 on the file of this Court seeking an interim measure of protection of injunction restraining the respondent/accused No.1 for further diluting his shares in the company of the respondent No.1 pending disposal of the Arbitration Proceedings to be raised by the complainant and such other consequential reliefs.

8. On hearing the said petition, this court on merits passed an order dated 06.01.2023 and dismissed the petition of the complainant which was filed under Section 9 of A & C

Act, 1996. Consequently , the interim order passed in favour of complainant was also vacated.

9. It is pertinent to note here that the complainant Mr. Ravikumar Rajendraprasad had filed I.A.No. 16 in Com. A.A.No.197/2021 seeking action against the accused persons herein for their alleged commission of offenses punishable U/ Sec. 193 of IPC. The said application was also disposed of on 06.01.2023 vide separate order. This court had dismissed the said application.

Paragraph No.9 of the order dated 06.01.2023 passed on I.A.No.16 is very much significant, the same reads as follows;

9. Considering the rival submission ad Materials on record, admittedly the applicant has filed present application on the ground that respondent No.2, 4, 5 and 6 have made misleading statement before this court and committed perjury and to take cognizance against them for the same and to punish them for the offence committed U/sec.193 of IPC, The main defence of the respondent is that the applicant is in the habit of filing criminal complaint against the respondent and the said complaint also stayed by the Hon'ble High Court and

referred to the complaint filed by the applicant in crime No.3/2022 and 103/2022 and also filing of the criminal petition in 1869/2022 and 5357/2022 and produce the copy of the FIR in crime No.3/2022 along with the complaint, copy of the order dated 04.03.2022 in CrI.No.1869/22, copy of the FIR along with the complaint in crime No.103/2022 and the copy of the order dated 15.06.2022 in Criminal petition No.5357/2022. On perusal of the aforesaid documents, it is clear that the applicant in its complaint dated 03.01.2022 has specifically averred the averments made in the present petition alleging that the respondent have played fraud in respect of the shares and the said complaint was stayed by the Hon'ble High Court observing that at the best the claim of the applicant/claimant is in respect of money and none else, Similarly, the another complaint dated 10.06.2022 filed by the applicant is also in respect of the similar facts pertaining to the shares as pleaded in the present case and the Hon'ble High Court observing that as held that the complainant/applicant had instituted multiple proceedings before the multiple forum and stayed the complaint proceedings in respect of the complaint. Keeping the aforesaid proceedings initiated by the applicant and the present application is also pertaining to the shares of the applicant and the allegation of the applicant that the respondent has lied to

cover up the fraudulent transaction knowing fully well that they will get to gain from their lies is a matter to be considered by the arbitrator in the full-fledged trial. There is no prima facie case to initiate an action against the respondent No.2, 4 to 6 for perjury. If at all the applicant is able to establish that the respondent as mentioned above have deliberately made misleading statements before this court to gain wrongfully before the arbitrator then the applicant can once again initiate the proceedings for the perjury. At this stage, this court is of the opinion there is no prima-facie case made out for taking Cognizance for perjury against the respondent No.2, 4 to 6. Accordingly I answer the point No.1 in the 'Negative', I pass the following;

ORDER

I.A.No.XVI filed under Section 193 and Section 200 of IPC is hereby dismissed.

No order as to cost.,

10. The reasons recorded by this court in paragraph-9 above is sufficient to say that the complainant cannot maintain the present Criminal Misc. Petition under Section 340 of Cr.P.C. The complainant produced no documents to prove that he has challenged the order dated 06.01.2023 in Com. A.A.No.197/2021. In the said order this court no where

inferred that the accused persons herein have tendered false evidence and therefore, they are liable to be punished for perjury.

11. It is further pertinent to note that the order passed on I.A.No.16 in Com. A. A. No.197/2021 is also not challenged by the complainant. The complainant is keep-on filing successive applications for the same relief in the garb of different procedures of perjury. Since this court has rejected I.A.No.16 filed by the complainant in Com. A.A. No.197/2021 the same is binding upon the court as well as the parties to the litigation. The said application was decided on merits and therefore, principles of constructive *res-judicata* is certainly applicable to the present criminal Misc. Petition. Viewed from any angle, the complainant made out no valid grounds to proceed against the accused persons. Hence, I answer point No.1 in the **Negative**.

12. Point No. 2 : For the foregoing reasons, the court proceed to pass the following ;

ORDER

The petition filed under Section 340 of Cr.P.C., 1973 R/W Sec. 195 of Cr.P.C. and Sec. 193 & 34 of the I.P.C. against the accused persons is hereby dismissed.

[Dictated to the Stenographer, transcribed by him, corrected and signed by me then pronounced in the Open Court, dated this the **22nd day of June, 2024**]

(Jithendranath C.S.)

LXXXVI Addl. City Civil & Sessions Judge,
Bengaluru

A N N E X U R E**List of witnesses examined on behalf of the complainant :**

PW-1 Sri. Ravikumar Rajendraprasad

List of documents marked on behalf of the Complainant :

Ex.P1 Copy of Exceltech firm Registration.

Ex.P2 Copy of Exceltech firm ITR for year 2015-2020

Ex.P3 Copy of Biofi incorporation certificate. Downloaded copy from ROC/MCA website public domain.

Ex.P4 Certified copy of Board of directors from ROC/MCA for year 2020-2021, 2021-2022

Ex.P5 Copy of Board of directors from ROC/MCA for the year 2022 onwards.

- Ex.P6 The asset purchase agreement Exceltech-Biofi dated 01.01.2020
- Ex.P7 Copy of Board resolution dated 19.08.2020. Downloaded copy from ROC/MCA public domain.
- Ex.P8 Copy of per share value Rs.1,30,198/- of Biofi as on 03.07.2020. Download copy from ROC/MCA portal.
- Ex.P9 Copy of the share holding agreement dated 12.10.2020. E-Document from Document sign portal.
- Ex.P10 Certified true copy of MGT-7A dated 14.12.2021.
- Ex.P11 Copy of email from Ms.Ankita dated 19.10.2020 @1.10 pm
- Ex.P12 Copy of email from complainant to Mr.Ravigirimaji dated 19.10.2020 @ 1.59 pm.
- Ex.P13 The copy of email from Mr.Ravigirimaji to complainant dated 19.10.2020 @ 6.23 pm
- Ex.P14 Certified true copy of AOC2 filed by company to ROC/MCA dated 18.10.2021 proof of Rs.1,00,00,000/not paid as advance.
- Ex.P15 Certified true copy of AOC4 filed by company to ROC /MCA dated 14.12.2021 proof of Rs.1,00,00,000/not paid as advance.
- Ex.P16 Certified true copy of the balance sheet filed by company to ROC/MCA, Income tax dated 18.10.2021 proof of Rs.1,00,00,000/not paid as advance also, proof of 7.19 crores to be paid by the company to the complainant.

- Ex.P17 Copy of the third party opinion of the AOC2, AOC4 and balance sheet. Third party opinion dated ' 21.07.2023 stating that Rs.1,00,00,000/- not paid as advance for asset purchase.
- Ex.P18 Copy emails and board resolution of investments and term sheet discussion dated 28.03.2021.
- Ex.P19 Copy of Whatsapp communication from Pauldurai Shanmugam to complainant and complainant's wife dated 07.04.2021.
- Ex.P20 Copy of email & meeting minutes forcing 1st defendant to become non-executive board member dated 09.04.2021
- Ex.P21 Certified true copy of board meeting list dated 06.01.2023
- Ex.P22 Copy of minutes of meeting Sriram, Ravi Girimaji, Complainant dated 08.06.2021.
- Ex.P23 Copy of Whatsapp screenshot of conference call dated 08.06.2021.
- Ex.P24 Copy of google map screenshot complainant was threatened to resign dated 08.06.2021.
- Ex.P25 Copy of email about resignation accepted in few hours and kept confidential to team until 23.06.2021.
- Ex.P26 Copy of agenda of board meeting which had been arranged hastily. Usually, 21 days time to be given or 7 days for EGM
- Ex.P27 Copy of NCR365/2021 first time information had been taken after 10 times of visit to police station.

- Ex.P28 Copy of email dated 04.07.2021 for arranging of meeting as discussed in police station.
- Ex.P29 Certified true copy of DIR-11 complainant of 1st defendant to ROC/MCA dated 30.08.2021
- Ex.P30 Certified true copy of DIR-11 recorded with ROC/MCA dated 30.08.2021.
- Ex.P31 Certified true copy evidence of cessation filed by ' Biofi an 29.06.2021.
- Ex.P32 Certified true copy of DIR-12 recorded with ROC / MCA dated by Biofi on 29.06.2021.
- Ex.P33 Copy of Kotak Bank statement of complainant.
- Ex.P34 Copy of valuation of shares dated 30.06.2021. But the immediate next day Rs.10 per share had been paid to the complainant on 01.07.2021.
- Ex.P35 Certified copy of order sheet of WP.No.15170/2021 dated 10.07.2023.
- Ex.P36 Certified copy of plaint, write statements of Com.AA.197 /2021 court proceedings.
- Ex.P37 Certified copy of perjury application, objections of Com.A.A.197/2021 court proceedings.
- Ex.P38 Certified copy of order sheet in Com.A.A.197/2021 court proceedings. (Daily order sheet, order dated 06.01.2023 on main petition, Perjury petition order 'sheet dated 06.01.2023 respectively)
- Ex.P39 Copy of the Annexures produced to Hon'ble NCLT dated 16.11.2022 in response to CP86/2021

- Ex.P40 Copy of the Board meeting shared during my tenure as director differs from the MGT-7A filed for the year 2020-2021.
- Ex.P41 Certified copy of MGT-7A submitted to ROC/ MCA | which shows the discrepancy of the board meetings dated 06.01.2023 but uploaded only on 09.09.2023.
- Ex.P42 Copy of the reply received from ROC/MCA for the complaint raised by complainant.
- Ex.P43 Copy of the screenshot of NCLT IBC proceedings and daily order sheet.
- Ex.P44 Certificate u /S 65B of Indian Evidence Act.

List of witnesses examined on behalf of the Accused :

Nil

List of documents marked on behalf of the Accused :

Nil

LXXXVI Addl. City Civil & Sessions Judge
Bengaluru