

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 6653/2023

1. Padam Chand Dhadda S/o Umrao Mal Dhadda, Aged About 72 Years, R/o C-10, Prathvi Raj Road, C-Scheme, Jaipur.
2. Manak Chand Talera S/o Shri Lakshmi Chand Talera, Aged About 66 Years, R/o B-101, Janpath, Near Manshri Appts, Shyam Nagar, Jaipur.
3. Anil Kumar Ranka S/o Ratan Lal Ranka, Aged About 63 Years, R/o 660, Opp. Seva Sadan, Adarsh Nagar, Jaipur.
4. Surendra Kumar Bhurat S/o Shri Suraj Chand Bhurat, Aged About 74 Years, R/o C-46, Dev Nagar, Tonk Road, Jaipur.

----Accused/Petitioners

Versus

1. State Of Rajasthan, Through Public Prosecutor.
....Non-petitioner/Respondent No.1
2. Abhinav Sharma S/o Jayprakash, R/o D-84, Saraswati Nagar, Gator Road, Malviya Nagar, Jaipur.

----Complainant/Respondent No.2

For Petitioner(s)	:	Mr. Pankaj Gupta, Adv.
For State	:	Mr. Sher Singh Mahla, PP
For Complainant(s)	:	Mr. Vipin Sharma, Adv.

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

12/01/2024

1. Petitioners have preferred this Criminal Misc. Petition seeking quashing of impugned FIR No.461/2021, registered at Police Station Vaishali Nagar, Jaipur for alleged offence under Sections 420, 409, 467, 468, 471 and 120-B of IPC.
2. Counsel for the accused-petitioners submits that petitioners are the trustees of Amar Jain Medical Relief Society

and the hospital was entrusted to the complainant with the understanding to run the hospital by the complainant, but in the mid term, for some reasons, complainant withdraw from the agreement. In that respect, the complainant served legal notice on 06.06.2020 (Annex.-3) upon the petitioners claiming an amount of Rs.90 lac alleged security amount deposited by him. This notice was duly replied by the petitioners on 20.06.2020.

3. Counsel for the petitioners further submits that averments of impugned FIR is taken on the face value, give rise to a dispute predominantly of civil nature in respect of due amount whatsoever may be and earlier also twice, after investigation, the police has submitted negative final report, finding the dispute to be purely of civil nature. However, investigation has been reopened third time. It is further submitted that petitioners are ready to cooperate with the investigation but police under the influence of complainant party inclined to harass the petitioners, who are of old age and esteemed reputation.

4. Counsel for the complainant-respondent No.2 has opposed the aforesaid submissions and pointed out that the intention of petitioners since inception was dishonest and deceptive to grab the security amount of Rs.90 lac of complainant-respondent No.2, therefore, the present FIR give rise to a cognizable offences to be investigated fairly and impartially and FIR may not be quashed.

5. Learned Public Prosecutor has placed on record the current status report dated 02.01.2024 in respect of impugned FIR and pointed out that it is true that the police earlier submitted negative final report treating the dispute of civil nature, however,

under the instructions of Additional Director General, Crime Branch, the investigation of the present FIR has been transferred to the Police Crime Branch and the same is underway.

6. I have considered the contentions.

7. Considering the totality of facts and circumstances of the case and the underlying dispute between the parties as narrated herein above, this Court deems just and proper, let the investigation be continued and petitioners shall cooperate the Investigating Authority. However, petitioners shall not be arrested. If during investigation, custodial investigation of any of the petitioner is deemed necessary, advance notice of 15 days shall be served to record for his personal presence.

8. List the matter on 09.02.2024 alongwith latest factual report.

9. It is made clear that it would be open for the complainant-respondent No.2 to move an application before the Court to vacate the stay order after filing of reply, if so required.

(SUDESH BANSAL),J