OFFICE OF THE DISTRICT & SESSIONS JUDGE NORTH-WEST DISTRICT ROHINI COURTS:DELHI

Genl.I/NW & N/Rohini/2020/...6338-6408 Delhi, dated the 07/02/2020

Sub:- Copy of order dated 17.01.2020 passed by the Hon'ble Ms. Justice Anu Malhotra in Crl. M.C. No. 214/2020 titled as Virender Kumar & Anr. Vs. State of Delhi & Anr.

Enclosed copy of letter bearing endst. No. 6345/Crl. dated 05.02.2020 alongwith a copy of order dated 17.01.2020 passed by the Hon'ble Ms. Justice Anu Malhotra, Hon'ble High Court of Delhi, New Delhi in Crl. M.C. No. 214/2020 titled as Virender Kumar & Anr. Vs. State of Delhi & Anr. is being forwarded for information and necessary compliance to :-

1. All the Ld. Judicial Officers, DHJS and DJS, North-West and North District, Rohini Courts, Delhi (including Family Courts) through **their Email Address available with this Branch** and inform them accordingly.

2. Personal Office, North-West & North District, Rohini Courts Complex, Delhi.

3. The Dealing Official, Computer Branch, Rohini Courts, Delhi for uploading the same on WEBSITE.

4. The Dealing Official, R & I Branch, Rohini Courts, Delhi for uploading the same on LAYERS.

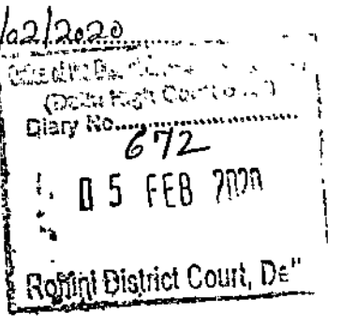
(Rakesh Kumar-IV)
Officer Incharge, General Branch-I,
North-West & North District,
Rohini Courts Complex, Delhi.

Encl:- As above

Declined

HIGH COURT OF DELHI AT NEW DELHI

No...6345...../Crl.Dated 05/02/2020



From .

The Registrar General,
Delhi High Court,
New Delhi.

To:

1. The District & Sessions Judge (HQ)/ Central, Tis Hazari Courts, Delhi
2. The District & Sessions Judge, West, Tis Hazari Court, Delhi
3. The District & Sessions Judge, New Delhi, Patiala House Courts, Delhi
4. The District & Sessions Judge, South, Saket Courts, Delhi
5. The District & Sessions Judge, South-East, Saket Courts, Delhi
6. The District & Sessions Judge, East, Karkardooma Courts, Delhi
7. The District & Sessions Judge, North East, Karkardooma Courts, Delhi
8. The District & Sessions Judge, Shahdara, Karkardooma Courts, Delhi
9. The District & Sessions Judge, North West, Rohini Courts, Delhi
10. The District & Sessions Judge, North, Rohini Courts, Delhi
11. The District & Sessions Judge, South West, Dwarka Courts, Delhi
12. The District & Sessions Judge, Rouse Avenue Courts, Delhi
13. The Coordinator/ Organizing Secretary, Mediation and Conciliation Centre, Delhi High Court, Delhi
14. Ms. Paridhi Gupta, Ld. MM, Dwarka Courts, New Delhi/ or successor court

Crl. M.C. No. 214/2020

Virender Kumar & Anr. .....Petitioners

V/s

State of Delhi & Anr. .....Respondents

Petition under Section 482 Cr.P.C., for quashing of the FIR No. 252/2003, U/S 419/420/467/468/471 IPC, P.S. Dabri, New Delhi and the proceedings arising therefrom pending before the Court of Ms. Paridhi Gupta, Ld. MM, Dwarka Courts, New Delhi

Sir/Madam,

I am directed to forward herewith immediate compliance/necessary action a copy of judgment/order dated 17/01/2020 passed in the above case by Hon'ble Ms. Justice Anu Malhotra of this Court.

Vide aforesaid order the Hon'ble Court has directed to circulate a copy of the order dated 17.01.2020 to all the Ld. Judl. Officer and to all Judges Incharge of the Mediation Centres of Delhi and Coordinator/ Organizing Secretary for adherence to the Law.

You are therefore, requested to circulate the aforesaid order dated 17.01.2020 to all the Judl. Officers and Judges In Charge of Mediation Centres in your respective districts/ centres for adherence to the law.

Other necessary directions are contained in the enclosed copy of order.

Yours faithfully,

MH 5/2/20

Assistant Registrar Judl. (Crl.II)
For Registrar General

Encl : Copy of order dated : 17.01.2020
and Memo of Parties.

Marked to Ld. OIC Genl. Br. for n.a.

जिला एवं सत्र न्यायाधीश (उत्तर-पश्चिम)
District & Sessions Judge (North-West)
रोहिणी न्यायालय, दिल्ली
Rohini Courts, Delhi
06-02-2020

IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.MISC. CASE NO. 214 of 2020

IN THE MATTER OF:

Virender Kumar & Anr. ...Petitioners

Versus

State of Delhi & Anr. ...Respondents

PETITION UNDER SECTION 482 CR.P.C. 1973 FOR QUASHING THE FIR BEARING NO. 252/2003 P.S. DABRI, UNDER SECTION 419/420/467/468/471 IPC AND THE PROCEEDINGS ARISING THEREFROM PENDING BEFORE THE COURT OF MS. PARIDHI GUPTA, LD. M.M., DWARKA COURTS, NEW DELHI, FIXED FOR HEARING ON 11.01.2020.

MEMO OF PARTIES

1. Virender Kumar
   S/o Shri Ganpati
   R/o Flat No. 139 Now 240,
   Pocket-6/3,
   MIG Flats, Nasirpur
   New Delhi.

2. Rajeev Ranjan @ Munna Pandey
   S/o Shri Gauri Shankar
   R/o RZ-122, Dabri Extension,
   New Delhi

   AT PRESENT
   H No. 333 Block B, 20 feet road
   Vinay Nagar Part 2,near Durga mandir
   Agwanpur,Faridabad, Sector-91, Faridabad
   Haryana-121013

.....PETITIONERS

Versus

1. State of Delhi

2. Radha Krishan Verma
S/o Shri Uma Shankar Verma
R/o Village & Post: Chandadih
P.S. Ubahv Distt. Ballia-221715
(U.P.)

.....RESPONDENTS

Filed By

KEDAR YADAV
Advocate
Enrl.No.: D-423/98
Chamber No.450
Patiala House Courts
New Delhi-110001
Mob.No.: 9818158167

New Delhi

Date: 13-11-2019

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

\+ CRL.M.C. 214/2020

VIRENDER KUMAR & ANR ..... Petitioners
Through: Mr.Kedar Yadav, Advocate

versus

STATE OF DELHI & ANR ..... Respondents
Through: Ms.Meenakshi Dahiya, APP for State
With SI Prabhakaran, PS Dabri.
Mr.Shakil Akhtar, Adv for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **17.01.2020**

The petitioners vide the present petition seek quashing of FIR No.252/2003 PS Dabri registered under Sections 419/420/467/468/471 of the Indian Penal Code, 1860, submitting to the effect that a settlement has been arrived at between the parties vide a settlement dated 11.2.2014 at the Mediation Centre, Dwarka Courts, New Delhi.

It has been submitted further on behalf of the petitioners and on behalf of the respondent No.2 that in terms of the settlement arrived at the Mediation Centre on 11.2.2014, the total settled sum of Rs.2,50,000/- has already been received from the petitioners. Learned counsel for the respondent No.2 further submits that in view of the terms of the Mediation settlement having been adhered to, the respondent No.2 does not oppose the prayer made by the petitioners seeking quashing of the FIR No.252/2003 PS Dabri registered under

Sections 419/420/467/468/471 of the Indian Penal Code, 1860.

On behalf of the State there is opposition to the prayer made by the petitioners and the submission made on behalf of the R-2 seeking quashing of the FIR No.252/2003 PS Dabri registered under Sections 419/420/467/468/471 of the Indian Penal Code, 1860 with reliance having been placed on behalf of the State on annexure P-3 to the petition, i.e., the certified copy of the charges framed on 20.10.2010 by the learned Metropolitan Magistrate, Dwarka Courts. The charges read to the effect:

> "CHARGE
>
> *I, M.M.Delhi, do hereby charge you accused (1) Virender Kumar S/o Sh. Ganpati, (2) Rajeev Ranjan @ Munna Pandey S/o Sh. Gauri Shanker, as under:-*
>
> *That on 18.10.2002 at unknown time at RZ-64, Raghu Nagar, Dabri, New Delhi within the jurisdiction of PS Dabri, you accused Virender Kumar knowingly substituted co-accused Rajeev Ranjan as FCI Director, which he was not and you both cheated the complainant of Rs.1,80,000/- on the pretext of getting him a job in the FCI and thereby committed an offence punishable under Section 419/420 IPC within my cognizance.*
>
> *Secondly, you both forged certain documents namely Allotment letter and joining letter of FCI intending that it shall be used for the purpose of cheating and you fraudulently and dishonestly used as genuine above said documents which you both knew at the time when used it to be a forged document and you both thereby committed an offence punishable U/S 468/471 IPC within my cognizance."*

It is essential to observe that apart from the charges framed qua the alleged commission of the offences punishable under Sections 419/420 of the IPC, 1860, the charges were also framed qua the alleged commission of the offences punishable under Sections 468/471 of the IPC with charges having been framed against the petitioners to the effect that the petitioners forged certain documents, namely, allotment letter and the joining letter of FCI intending to be used for the purpose of cheating and they fraudulently and dishonestly used those forged documents as genuine documents which they knew at the time when using them to be forged documents. It is essential to observe that the proceedings dated 11.2.2014 of the Mediation Centre, Dwarka Courts, indicate that the matter had been referred to mediation and that the mediation settlement was qua the FIR No No.252/2003 PS Dabri registered under Sections 419/420/468/471 of the Indian Penal Code, 1860.

It is essential to observe that as laid down as far back on 26.7.2010 in ***Afcons Infrastructure Limited & Another v. Cherian Varkey Construction Company Private Limited***; (2010) 8 SCC 24, by the Hon'ble Supreme Court cases involving serious and specific allegations of fraud, fabrication of documents, forgery, impersonation coercion etc in terms of para 27 (4) of the said verdict which reads to the effect:

> *" 27. The following categories of cases are normally considered to be not suitable for ADR process having regard to their nature:*
> *(i)* .....
> *(ii)* .....

(iii) .....
(iv) Cases involving serious and specific allegations of fraud, fabrication of documents, forgery, impersonation, coercion etc.",

are cases not considered to be suitable for the ADR process.

There has also been repeated adherence to the said guidelines laid down in ***Afcons Infrastructure Limited & Another v. Cherian Varkey Construction Company Private Limited*** and ***Perry Kansagra v. Smriti Madan Kansagra;*** Civil Appeal No. 1694/2019 decided on 15.2.2019. The verdict of this Court in ***Yashpal Chaudhrani & Ors. v. State (Govt. of NCT of Delhi) and Another*** 2019 SCC OnLine Del 8179 observed as under:

"67. ***This Court is of the firm view that before making a reference to mediation in the context of criminal case, the court must consider as to whether a settlement reached by such effort would be acceptable for the criminal process to be brought to an end.***
(emphasis supplied)

.....

71. To sum up, this Court is of the considered opinion that there has to be circumspection at all stages and:
(i) The court while considering reference of the parties to a criminal case to mediation must before even ascertaining as to whether elements of settlement exist first examine, by preliminary scrutiny, ***the permissibility in law for the criminal action to be brought to an end either because the offence involved is*** *compoundable or because the High Court would have no inhibition to quash it, bearing in mind the broad principles that govern the exercise of jurisdiction under Section 482 Cr.P.C.*
(ii) The mediator (before commencing mediation) must undertake a preliminary scrutiny of the facts of the

criminal case and satisfy himself as to the possibility of assisting the parties to such a settlement as would be acceptable to the court, bearing in mind the law governing the compounding of the offences or exercise of power of the High Court under Section 482 Cr.P.C. For this, an institutional mechanism has to be created in the mediation centres so that there is consistency and uniformity in approach. The scrutiny in above nature would also need to be undertaken, as the mediation process continues, should any such criminal case, as mentioned above, be brought on the table by the parties (for being included in the settlement), as takes it beyond the case initially referred.

(iii) The system of vetting, at the conclusion of the mediation process, needs to be institutionalised so that before a settlement vis-a-vis a criminal case is formally executed by the parties, satisfaction is reached that the criminal charge involved is one which is either compoundable or one respecting which there would be no inhibition felt by the High court in exercise of its inherent power under Section 482 Cr.P.C., bearing in mind the relevant jurisprudence.

72. It is hoped and expected that the criminal courts, and the mediation centres shall abide by the above guidelines in future. It may be added that the above would equally apply mutatis mutandis to the other ADR methods."

(emphasis supplied)

The said guidelines need necessarily to be adhered to by the Trial Courts whilst referring cases to mediation and by the Judges Incharge of the Mediation Centres whilst working out the mediation settlement.

In the circumstances of the instant case, a submission has been made on behalf of the petitioner that there are only private parties involved and that there has been no misuse of any official machinery.

Taking into account the factum that the charges that have been framed on 20.10.2010 itself indicate that there has been an allotment letter and a joining letter of the FCI prepared for the purpose of fraudulent cheating and dishonest user of the same as genuine, it is not considered appropriate to grant the prayer made by the petitioners seeking the quashing of the FIR in question.

Copy of this order be sent by the learned Registrar General of this Court to all the learned judicial officers and to all Judges Incharge of the Mediation Centres of Delhi as well as to the Co-ordinator of the Delhi High Court Mediation and Conciliation Centre for adherence to the law.

The petition is thus declined.

ANU MALHOTRA, J

JANUARY 17, 2020/SV

TRUE COPY

EXAMINER