2026:AHC:222383

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 19362 of 2020

Dr. Sarita Teotia

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Pratik J. Nagar
Counsel for Opposite Party(s)	:	G.A., Shyam Babu Vaish

Court No. - 80

HON'BLE CHAWAN PRAKASH, J.

1. Heard Mr. Pratik J. Nagar, learned counsel for the applicant; Mr. Shaym Babu Vaish, learned counsel for opposite party No. 2; and Mr. Jyoti Kumar Singh, learned A.G.A. for the State, and perused the record.

2. This application under Section 482 Cr.P.C. has been filed seeking the quashing of the order dated 30.11.2018, passed by the Additional Chief Judicial Magistrate, Court No. 2, Bulandshahr, in Complaint Case No. 2285 of 2017, Jaiveer Singh v. Dr. Sarita Teotia, under Section 420 I.P.C., and the order dated 16.10.2020, passed by the Additional District and Sessions Judge, Bulandshahr, in Criminal Revision No. 36 of 2019, Dr. Sarita Teotia v. State of U.P. and another, as well as the entire proceedings of the aforesaid complaint case.

3. The brief facts giving rise to the present application are that opposite party No. 2 filed an application under Section 156(3) Cr.P.C., alleging that his wife, Devendri, had been unable to conceive since their marriage. Approximately a year and a half earlier, opposite party No. 2 had taken his wife to Dr. Sarita Teotia at Teotia Hospital and Fertility Centre, Kotwali Nagar, Bulandshahr, for treatment. Dr. Sarita Teotia stated that she could help his wife become pregnant through in vitro fertilization and demanded Rs. 3,50,000/-, which opposite party No. 2 paid to her in installments. The doctor issued a receipt for Rs. 1,60,000/- but did not issue a receipt for the remaining amount. Despite receiving treatment at the hospital, his wife did not conceive. When he asked the doctor to refund his money, she repeatedly put him off and ultimately refused, saying, "This is how we make money: by misleading people. We have connections in high places." She refused to

return his money. When the local police took no action, he sought recourse through the Court. The application was treated as a complaint case. The statement of opposite party No. 2 was recorded under Section 200 Cr.P.C. The statements of Smt. Devendri and Ravindra Singh were recorded under Section 202 Cr.P.C. The learned Magistrate summoned the applicant under Section 420 I.P.C. Aggrieved by the impugned order, she filed a criminal revision, which was dismissed.

4. Learned counsel for the applicant submits that the applicant is a medical practitioner by profession and obtained her MBBS degree in 1993 from Nagpur University. The doctor is highly skilled and qualified, and the hospital has earned a reputation for providing medical care, gaining the trust and confidence of innumerable patients. The applicant is engaged in tireless and sustained efforts to serve people by providing them with the most modern medical facilities. Opposite party No. 2 visited her hospital to seek treatment for his wife, who had been unable to conceive since their marriage. The applicant provided her with the best treatment, but, for certain reasons, she could not conceive. Learned counsel further submits that no medical procedure, especially IVF, has a guaranteed success rate of 100%. The failure of IVF cannot, by any stretch of the imagination, be construed as evidence of fraudulent intent or cheating at the inception for the purposes of Section 420 I.P.C. The essential ingredients of Section 420 I.P.C., namely, dishonest and fraudulent inducement at the time of making the promise, are completely absent from the complaint. Opposite party No. 2 began threatening the applicant, demanding a refund of the amount he had paid for the treatment. When the applicant did not accede to his unlawful demand, he filed the impugned complaint out of vengeance and with *mala fide* intent. The statements of opposite party No. 2 and the other witnesses were recorded, but there is no evidence to support the allegations made in the complaint. The learned Magistrate, after recording the statement of opposite party No. 2 under Section 200 Cr.P.C. and those of the other witnesses under Section 202 Cr.P.C., proceeded to summon the applicant to face trial under Section 420 I.P.C. by an order dated 30.11.2018. Both the learned Magistrate and the learned Additional Sessions Judge failed to appreciate the facts of the case. The criminal proceedings constitute a clear abuse of the process of the Court, having been initiated to harass a qualified medical practitioner and extract money following unsuccessful medical treatment. Therefore, the impugned summoning order passed by the learned Magistrate and the order passed by the revisional Court are liable to be set aside.

5. Per contra, learned counsel for opposite party no. 2, as well as the learned A.G.A., opposed the arguments advanced by learned counsel for the applicant. Opposite party no. 2 filed an application under Section 156(3) Cr.P.C., alleging that his wife, Devendri, had been unable to conceive since their marriage. Opposite party no. 2 took his wife to Dr. Sarita Teotia at Teotia Hospital and Fertility Centre, Kotwali Nagar, Bulandshahr, for treatment. He paid her Rs. 3,50,000/- in installments. When his wife did not conceive, he asked the doctor to refund his money. The statement of opposite party no. 2 was recorded under Section 200 Cr.P.C. The statements of Smt. Devendri and Ravindra Singh were recorded under Section 202 Cr.P.C. The learned Magistrate summoned the applicants under Section 420 I.P.C. Aggrieved by the impugned order, she filed a criminal revision, which was dismissed. Learned counsel further submits that, at the stage of issuing summons under Section 204 Cr.P.C., the Magistrate is required only to form a *prima facie* opinion based on the statements recorded under Sections 200 and 202 Cr.P.C. Both the trial court and the revisional court have rightly held that the allegations, on their face, disclose a *prima facie* case under Section 420 I.P.C. Neither the Magistrate nor the revisional court has committed any illegality, and the application is liable to be dismissed.

6. This Court has heard learned counsel for both parties at length and carefully perused the record, including the complaint, the statements recorded under Sections 200 and 202 Cr.P.C., and the impugned order.

7. To constitute an offence under Section 420 of the I.P.C., the essential ingredients that must be established are deception of any person; fraudulent or dishonest inducement of that person to deliver any property; and an intention to deceive existing at the very inception of the transaction or promise.

8. The distinction between a mere breach of contract or medical failure and the offence of cheating depends on the intention of the accused at the time of the inducement. Mere failure to achieve a successful medical outcome does not automatically establish fraudulent intent.

9. In **State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335]**, the Hon'ble Supreme Court laid down parameters for exercising inherent powers under Section 482 Cr.P.C., holding that, where the allegations made in the complaint, even if taken at face value, do not disclose the commission of any offence against the accused, the High Court ought to exercise its inherent

power to prevent abuse of the process of any court.

10. Furthermore, in **Jacob Mathew v. State of Punjab [(2005) 6 SCC 1]**, the Apex Court observed that medical science is not an exact science. A medical practitioner cannot guarantee a cure. The failure of a treatment or procedure does not, by itself, imply negligence, much less criminal liability or fraud under the Indian Penal Code.

11. Applying these established legal principles to the case at hand, the applicant is a recognized medical practitioner who runs a fertility center. Opposite party No. 2 sought specialized assisted reproductive treatment (IVF). Medical statistics universally acknowledge that IVF procedures have inherent failure rates that depend on numerous physiological factors. Offering IVF treatment cannot be equated with a legal guarantee of pregnancy. Opposite party No. 2 has failed to demonstrate any fraudulent intention on the part of the applicant at the time the medical consultation commenced. The money received represented professional fees charged for medical services and procedures rendered over time.

12. Allowing criminal prosecution under Section 420 I.P.C. for unsuccessful medical treatment would set a dangerous precedent, subjecting medical professionals to criminal liability whenever a medical procedure does not yield the desired result. Both the learned Magistrate and the learned revisional Court failed to appreciate that the dispute, at best, pertains to an unsuccessful medical procedure or a monetary claim and does not involve the requisite *mens rea* to constitute an offence under Section 420 I.P.C. Proceeding with the trial on these facts constitutes a clear abuse of the process of the Court.

13. It is a settled principle of law that summoning an accused in a criminal case is a serious matter. Criminal law cannot be set in motion as a matter of course. Merely producing two witnesses to support the allegations in the complaint is not sufficient to have the criminal law set in motion. The Magistrate's order summoning the accused must reflect that the Magistrate has applied his mind to the facts of the case and the law applicable thereto. He must examine the nature of the allegations made in the complaint and the evidence, both oral and documentary, in support thereof, and determine whether that evidence would be sufficient for the complainant to bring the charge home to the accused. The Magistrate is not a silent spectator when preliminary evidence is recorded before summoning the accused. The

Magistrate must carefully scrutinize the evidence brought on record and may himself put questions to the complainant and his witnesses to elicit answers to ascertain the truthfulness or otherwise of the allegations. He must then examine whether any offence has *prima facie* been committed by all or any of the accused.

14. In the present case, the learned Magistrate has summoned the applicants under Section 420 I.P.C. A perusal of the summoning order shows that the learned Magistrate passed it in a very casual and mechanical manner, without carefully applying his judicial mind.

15. From the averments contained in the complaint and the statement of the complainant recorded under Section 200 Cr.P.C.and 202 Cr.P.C., no *prima facie* case is made out against the applicants. The learned Magistrate, therefore, erred in summoning the applicants. Accordingly, the impugned summoning order is liable to be set aside.

16. In view of the foregoing discussion and the established position of law, the present application is allowed. The impugned order dated 30.11.2018, passed by the Additional Chief Judicial Magistrate, Court No. 2, Bulandshahr, in Complaint Case No. 2285 of 2017, Jaiveer Singh v. Dr. Sarita Teotia, under Section 420 I.P.C.; the order dated 16.10.2020, passed by the Additional District and Sessions Judge, Bulandshahr, in Criminal Revision No. 36 of 2019, Dr. Sarita Teotia v. State of U.P. and another; and the entire proceedings of the aforesaid complaint case are hereby quashed.

October 26, 2026
Vijay

(Chawan Prakash,J.)

Digitally signed by :-
VIJAY KUMAR SAHU
High Court of Judicature at Allahabad