



2024:DHC:8983



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IN THE HIGH COURT OF DELHI AT NEW DELHI**RESERVED ON – 27.09.2024**

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PRONOUNCED ON – 20.11.2024

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W.P.(CRL) 2073/2024

MATRIX CELLULAR INTERNATIONAL SERVICES LIMITED

AND ORS.

.....Petitioners

Through: Mr. Samudra Sarangi, Ms. Abhilasha
Khanna and Mr. Tanay Chaturvedi,
Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Amol Sinha, ASC (Crl.) with
Mr. Kshitiz Garg, Mr. Ashvini Kumar
and Ms. Chavi Lazarus, Advocates.
Inspt. Kamal Yadav, Inpst. Satendra
Mohan and SI Gulab Singh, ISC,
Crime Branch, New Delhi.**CORAM:****HON'BLE MR. JUSTICE DINESH KUMAR SHARMA****J U D G M E N T****DINESH KUMAR SHARMA, J:**

1. The present petition has been filed under article 226 of the Constitution of India, 1950 read with section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter 'BNSS'*) seeking issuance of direction, order or appropriate writ(s) for quashing the FIR No. 116/21 dated 05.05.2021 registered at Police Station Lodhi Colony under section 420/269/188/120B/34 of the Indian Penal Code (*hereinafter 'IPC'*).
2. Briefly stated the case of the prosecution as stated in the status report is that on 05.05.2021, the SHO, PS Lodhi Colony while patrolling found that a restaurant, with the name and style of Nege & Ju in Central Market, Lodhi Colony, New Delhi was operating. On search of the



aforesaid restaurant, 32 boxes containing Oxygen Concentrators having a capacity of 09 Ltr. and 5 Ltr., and thermal scanners and KN-95 Masks were recovered.

3. During the course of the investigation, at the instance of the accused persons, namely Gaurav Suri, Satish Sethi and Vikrant, 387 Oxygen Concentrators, 112 boxes containing KN-95 Masks and 95 Oximeters were recovered from Matrix Cellular International Services Pvt. Ltd., 7, Khullar Farms House, Mandi Road, Fatehpur Beri, New Delhi. During interrogation, accused persons disclosed that they used to purchase Oxygen Concentrators and other COVID-19 treatment-related equipment through various means and sold them at exorbitant prices.
4. During investigation at the instance of accused Hitesh, 09 Oxygen Concentrators were recovered from Town Hall Restaurant, Khan Market. The search of Khan Chacha Restaurant, Khan Market was conducted and the accused pointed towards cartons containing Oxygen Concentrators. A total of 96 Cartons, were recovered and were taken into police possession. On 07.05.2021, Mr. Gaurav Khanna, CEO of Matrix Cellular was interrogated and arrested in the present case.
5. Investigation of the case was transferred to PS Crime Branch, Chanakyapuri, New Delhi, on 08.05.2021. During the investigation, accused Gaurav Khanna revealed that in 2020, due to the global pandemic, the company shifted to dealing in COVID-19-related items, and imported and sold products like oximeters, oxygen concentrators, and KN-95 masks, making a profit of ₹40,000–₹42,000 per oxygen concentrator. Deliveries were made from locations like Khullar Farm (Sultanpur) and Nege N Ju Restaurant (Lodhi Colony).



6. The oxygen concentrators were also sent to test their efficacy and whether they were manufactured in compliance with the guidelines issued by WHO. The tests revealed the oxygen concentrators did not meet WHO guidelines, which require oxygen purity levels of 82%-96%. A laboratory report from AIIMS dated 17.05.2021 found the concentrators provided only 32.7%-38.2% oxygen purity, rendering them unsuitable for COVID-19 treatment, as confirmed by Dr. U.B Das, Sr Chief Medical Officer, EMR, Ministry of Health and Family Welfare in his letter dated 21.05.2021.
7. *Sh. Mohit Mathur*, learned senior counsel for the petitioner submitted that Matrix began sourcing oxygen concentrators from importers like M/s SpiceJet and M/s Classic Metals in July 2020 to meet urgent pandemic demands. Learned senior counsel is submitted that the concentrators were legally purchased and sold through Matrix's 'X Factor' online platform and distributors using legitimate banking channels, ensuring transparency and compliance with tax obligations.
8. Learned senior counsel for the petitioner further submitted that during the surge in April-May 2021, when large crowds gathered at Matrix's office due to delivery delays, a non-operational restaurant in Khan Market was designated as a Collection Centre to streamline operations and manage the overwhelming demand effectively. It was submitted that on May 5, 2021, authorities raided the Collection Centre, alleging hoarding and black-marketing without immediate evidence. Employees were arrested and charged under several laws, including the Essential Commodities Act and Section 420 IPC, despite their cooperation. The FIR was filed hastily without a preliminary investigation.



9. Learned senior counsel submitted that the FIR lacked evidence to substantiate Section 420 IPC charges. Matrix operated within the law, paying taxes and utilising legitimate channels. The Learned Trial Court, Saket, in its May 12, 2021, order granting bail, observed that no prima facie case under Section 420 IPC was evident and observed that the charge was added to justify the arrests.
10. Learned senior counsel also submitted that the FIR made no mention of sub-standard product quality, a claim raised only later. Tests confirmed the concentrators met specifications and were used at COVID care centers and listed on the Government e-Marketplace (GeM), evidencing their reliability. No customer complaints regarding deficient quality were filed before or after the registration of FIR.
11. Learned senior counsel for the petitioner also submitted that out of approximately 8,700 concentrators sold, only a negligible fraction of complaints (less than 0.1%) emerged. Refund requests totalling ₹89 lakhs for 141 customers were duly honoured, reflecting Matrix's commitment to customer satisfaction. Learned senior counsel submitted that most purported grievances cited in the FIR were not raised directly with Matrix.
12. Learned senior counsel emphasized the absence of any criminal action against importers like M/s Classic Metals and M/s SpiceJet, who supplied the concentrators. The focus solely on Matrix suggests an unfair and prejudiced approach. It was further submitted that the list of 30 complaints cited by the Respondent misrepresents the scale of customer dissatisfaction, as Matrix proactively resolved concerns through refunds and redressal. These isolated grievances do not



substantiate allegations of fraud or justify invoking Section 420 IPC.

13. In the present case though the investigation is still pending however the charges under the Essential Commodities Act have been admittedly dropped by the investigating agency as stated in the status report dated 06.08.2024. Still, the allegations of selling the un-tested oxygen concentrators to get wrongful gains, taking undue advantage of the crisis and acute shortage of oxygen supply caused due to the pandemic, and compelling needy persons to part with their hard-earned money cannot be ignored. The margin of profit was very high, especially in view of the ongoing pandemic. Further, the fact that the oxygen concentrators sold by the petitioners were not in compliance with the required parameters recommended by the WHO to help patients suffering from COVID-19 is still to be investigated.
14. In the ordinary course of criminal proceedings, judicial intervention to halt an investigation or to quash an FIR at an early stage should be undertaken only in exceptional cases, where allowing the proceedings to continue would clearly constitute an abuse of legal process. Generally, the quashing of a complaint during the course of investigation should be a rare occurrence rather than a standard practice. The courts are cautioned against delving into the veracity of the statements contained within an FIR at the preliminary stage, as FIRs serve merely to disclose the broad outlines of alleged facts, not to provide detailed, evidentiary-level precision.
15. In the present case, the petitioner faces allegations of selling defective/un-tested/sub-standard oxygen concentrators at inflated prices and allegedly providing products that were not in compliance with



essential quality standards. During the COVID-19 pandemic, access to reliable and effective oxygen concentrators was critical. The Supreme Court has time and again ruled that alleged non-compliance with regulatory standards and potential knowledge of such non-compliance constitute issues that are subject to investigation and determination at trial. The factum of oxygen concentrators not meeting the parameters as set by the WHO and Government and whether the petitioner had the knowledge that the oxygen concentrators are sub-standard ones and did not meet the requirements is still under investigation. The investigation is still pending, and therefore, it would not be apposite to quash the proceedings at this stage.

16. After taking into consideration the facts of the case, documents on record and submissions of the parties, this court is of the opinion that it is not appropriate to quash the proceedings at the stage while investigation is still pending. However, it is made clear the petitioner is at liberty to approach the appropriate forum after the completion of the investigation. The contentions raised by the petitioner are kept open for consideration at a later stage. No expression made herein shall tantamount to be expression on the merits of the case.
17. In view of the above, the present petition, along with the pending application(s), if any, stands dismissed.

DINESH KUMAR SHARMA, J

NOVEMBER 20, 2024/Ankit/HT