



IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPEAL NOS. OF 2026**  
**ARISING OUT OF SLP (CRL.) NOS. 10379-10380 OF 2023**

**NARAYANA HEALTH & ORS.**

**...APPELLANT(S)**

**VERSUS**

**THE STATE OF WEST BENGAL & ORS.**

**...RESPONDENT(S)**

**J U D G M E N T**

1. Leave granted.
2. The present appeals arise from the judgement and order of the High Court<sup>1</sup>, setting aside the summoning order passed by the Judicial Magistrate<sup>2</sup> and remanding the matter for reconsideration, especially regarding complicity of first appellant, a corporate entity running the co-accused hospital, and the third appellant, being the Chairman, both of whom are in a separate territorial jurisdiction than the Magistrate. The main issue is whether the allegations contained in the complaint *prima facie* disclose commission of a criminal offence or not.

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<sup>1</sup> Vide judgement and order dated 16.05.2023 in C.R.R. No. 967 of 2021 with CRAN No. 1 of 2021.

<sup>2</sup> Vide order dated 11.03.2021 in Complaint Case No. C-533 of 2021.

3. The facts relevant for our consideration are as follows. The present proceedings arise out of a complaint filed by the second respondent (“complainant”) in relation to the medical treatment of his mother, Smt. Bina Sen, who was admitted to Narayana Multispecialty Hospital, Barasat, Kolkata, on 13.02.2021 for treatment of her fractured right femur bone. She underwent a successful surgery on 15.02.2021 and remained admitted until her discharge on 19.02.2021. Upon discharge, the hospital issued a bill for the medical services rendered. The complainant paid a sum of Rs. 1,71,130/- towards the treatment expenses, out of a total billed amount of approximately Rs. 1,94,307.84/- after certain discounts were applied by the hospital. After the discharge of the patient, the complainant approached the hospital authorities on 20.02.2021, raising concerns regarding certain discrepancies in the billing and seeking copies of medical records and documents relating to the treatment of his mother. The complainant was informed about the hospital's grievance redressal mechanism and was advised to follow the established procedure for obtaining records and addressing billing concerns. Subsequently, the complainant requested copies of medical documents and treatment records required for purposes of insurance reimbursement.

4. Thereafter, on 23.02.2021, the hospital issued a revised bill reflecting an adjustment in the charges, particularly in relation to an HRCT test

amounting to Rs. 2,500/-, which had earlier been included in the bill. According to the hospital, though the said diagnostic test was proposed, it was in fact not conducted because the subsequent condition of the patient did not warrant it. Consequently, the revised bill reflected that the amount of Rs. 2,500/- was liable to be refunded to the complainant. The hospital communicated the same to the complainant through email on 24.02.2021, requesting him to collect the refund amount from the hospital counter or to provide bank details to facilitate the transfer of the amount. A reminder communication was also sent thereafter, requesting the complainant to collect the refund.

5. The complainant instituted Complaint Case No. C-533 of 2021 before the Judicial Magistrate, 2nd Court, Barasat, alleging that the hospital had intentionally included charges for a diagnostic test which had not been performed, and that relevant medical documents were not supplied promptly. The complaint further alleged that certain hospital personnel (arrayed in this appeal as the fourth appellant and the third respondent) behaved improperly and issued threats when the complainant questioned the billing and sought clarification regarding the treatment records. On the basis of these allegations, offences under Sections 406, 420 and 120B of the Indian Penal Code, 1860 ("IPC"), along with Section 34 of the West Bengal Clinical

Establishments (Registration, Regulation and Transparency) Act, 2017 ("2017 Act"), were invoked against the first appellant, the company running the hospital; the second appellant, the hospital; the third appellant, being the Chairman of the company; the fourth appellant, being the representative attached with the hospital; and the third respondent, being the former employee of the hospital.

6. The Magistrate examined the complainant and preliminary statements of supporting witnesses under Section 200 of the Criminal Procedure Code, 1973 ("CrPC") and, by order dated 11.03.2021, issued process against the accused persons. Aggrieved thereby, the appellants filed a petition for quashing the complaint and the summoning order under Section 482, CrPC.

7. The High Court, vide impugned judgement dated 16.05.2023, instead of considering the submissions of the appellants that no offence is made out and that the allegations, even if true, relate to a civil dispute, proceeded to remand the matter to the Magistrate to reconsider complicity of accused persons living in separate territorial jurisdictions. While setting aside the order of summons, the High Court without a proper examination of the facts, particularly in the context of the offences alleged, made a passing comment that *offence has been made out*. The relevant portion of the impugned judgement is reproduced below -

*"I have considered the allegations made in the petition of complaint as also the evidence under Section 200 of the Code of Criminal Procedure (initial deposition) of the complainant Kolloi Kumar Sen and his witness Uttam Kumar Basu. Both the witnesses apart from the issue relating to inflated bill of Rs.2,500/- being charged for a test which was not done also specifically alleged in respect of accused persons Suvendu Prakash and Anup Bhaduri who pushed the complainant into the office and threatened him that they are least bothered of such crimes and if the same is disclosed he may have to face concern relating to safety of his life.*

*The aforesaid act of the two accused persons prima facie do make out an offence under Section 504 of the Indian Penal Code. At this stage, the concern of the Court is to see whether the allegations in the complaint do make out an offence.*

*On an assessment of the whole complaint, I am of the view that offence has been made out, however, the complicity of all the persons are to be assessed. It is an admitted position that the petitioner nos. 1 and 3 are having their address at a separate territorial jurisdiction, although petitioner no. 1 is an artificial person but petitioner no.3 is a natural person, his complicity relating to the offence is to be assessed on a different yardstick under Section 200 of the Code of Criminal Procedure prior to issuance of process.*

*Accordingly, the order dated 11.03.2021 issuing process is set aside. Learned Judicial Magistrate, 2nd Court, Barasat, North 24 Parganas would assess regarding the complicity of the petitioner no.3 as also petitioner no.1 before issuing process.*

*The revisional application being CRR 967 of 2021 is partly allowed."*

8. Aggrieved, the appellants have approached this Court and by our order dated 28.08.2023, while issuing notice in the Special Leave Petition, this Court also stayed further proceedings before the Magistrate.

9. We heard Mr. Nidhesh Gupta, Senior Advocate for the appellants, and as none appeared on behalf of the complainant, we requested Mr. Gagan Gupta, Senior Advocate, to assist us as an amicus curiae.

10. The appellants had approached the High Court against issuance of process by the Magistrate by invoking its inherent jurisdiction under Section 482 of the CrPC. The circumstances in which the High Court can exercise its power and jurisdiction under Section 482 to quash criminal proceedings is well articulated in a number of precedents, commencing with the celebrated decision of this Court in *State of Haryana v. Bhajan Lal*,<sup>3</sup> the relevant excerpt of which is as follows -

*“1. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*2. Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*4. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

*5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable, on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

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<sup>3</sup> 1992 Supp (1) SCC 335; *Ramesh Chandra Gupta v. State of UP*, (2022) 18 SCC 706; *Arshad Neyaz Khan v. State of Jharkhand*, 2025 SCC OnLine SC 2058; *Shashank Garg v. State and Ors.*, 2025 SCC OnLine Del 2455.

*6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

*7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

11. The complainant alleged commission of offences under Sections 405, 420 and 120B, IPC in his complaint. For criminal breach of trust under Section 405, IPC, it is necessary that there must be entrustment of property to the accused; such entrustment must create a fiduciary obligation regarding the handling or use of that property; and the accused must have dishonestly misappropriated or converted the entrusted property.<sup>4</sup> Applying these principles to the present case, the allegations in the complaint indicate that the amount of Rs. 2,500/- was paid by the complainant as part of the hospital bill towards charges for an HRCT test, at the time of discharge of the patient. The complaint does not contain any averment that the amount in question was entrusted to the hospital to be held or utilised for a fiduciary or trust-based purpose, nor does it refer to any legal or contractual stipulation governing the manner in which such amount was required to be dealt with or

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<sup>4</sup> *Sadhupati Nageswara Rao v. State of Andhra Pradesh*, (2012) 8 SCC 547; *Prof. RK Vijayasathya v. Sudha Seetharam*, (2019) 16 SCC 739.

any other averment to show as to how Section 405, IPC is made out. Furthermore, upon mistake being pointed out, the hospital had offered to refund the amount wrongly charged. Thus, in the absence of entrustment, dishonest misappropriation, or violation of a fiduciary obligation, foundational ingredients of the offence of criminal breach of trust as enshrined in Section 405, IPC are not satisfied.

12. For the offence of cheating under Section 420, IPC there must be deception on part of the accused from the very beginning; such deception must lead to fraudulent or dishonest inducement; and the accused must have had dishonest intention at the time the inducement was made.<sup>5</sup> The allegation in the complaint is merely that the bill issued by the hospital reflected charge for a test that was not performed. Once the issue of wrong charge was raised by the complainant, the hospital communicated its decision to refund the amount. The discrepancy in billing appears to be more of an inadvertence, than a case of dishonest intention on part of the hospital. We are of the opinion that the allegation of cheating is completely misplaced.

13. For the offence of criminal conspiracy under Section 120B, IPC there must be a prior agreement or meeting of minds for commission of an illegal

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<sup>5</sup> *Joseph Salvaraj A. v. State of Gujarat*, (2011) 7 SCC 59; *Ajay Mitra v. State of M.P.*, (2003) 3 SCC 11; *Alpic Finance Ltd. v. P. Sadasivan*, (2001) 3 SCC 513.



act or a lawful act by illegal means.<sup>6</sup> Moreover, where the foundational offences are not disclosed, a charge of conspiracy premised upon those offences ordinarily cannot stand independently.<sup>7</sup> Since the allegations regarding offences of criminal breach of trust and cheating are virtually non-existent, the incidental allegation of criminal conspiracy is unsustainable. Furthermore, the complaint named not just the hospital and its staff but also the corporate entity running it and its Chairman. There is nothing in the complaint indicating a prior agreement, concerted plan, or meeting of minds among the accused persons to commit an unlawful act.

14. The complainant had also alleged improper conduct by the fourth appellant and the third respondent, employees of the hospital, as has been noticed in the impugned judgement as well. The allegations in the complaint relate to the alleged statements made by them discouraging the complainant from pursuing the matter any further. There is nothing more to this averment and it is important to note that neither the complaint nor the summoning order refers to commission of an offence under Section 503, IPC. The High Court while remanding the matter, on its own makes an observation that, "the aforesaid act of the two accused persons prima facie do make out an offence under Section 504 of the Indian Penal Code" and that "offence has been

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<sup>6</sup> *State (NCT of Delhi) v. Navjot Sandhu*, (2005) 11 SCC 600.

<sup>7</sup> *R.K. Vijayasathya* (supra).

made out". We are of the opinion that there was no occasion for the High Court to construe the general averments and elevate them to the commission of an offence under Section 504 and then observe that offence has been made out.

15. In view of the above discussion, we are of the opinion that the allegations made in the complaint, even if assumed to be true in their entirety and accepted at face value, fail to disclose the commission of any offence under the Sections invoked against the accused persons.

16. The complaint also alleged grievance about non-supply or delay in supply of medical records. We are of the opinion that the allegation falls short of a criminal offence and could at the most give rise to some kind of a claim in civil law or a statutory requirement under West Bengal Clinical Establishment (Registration, Regulation & Transparency) Act, 2017 or the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. However, the complaint only refers to the commission of offence under Section 34 of the West Bengal Clinical Establishment (Registration, Regulation & Transparency) Act, 2017.

17. The above referred 2017 Act is intended to regulate the functioning of clinical establishments within the State, ensure transparency in medical services, standardise treatment protocols, and provide mechanisms for

grievance redressal in matters relating to patient care, billing practices and service standards. Duties of clinical establishments such as the appellant hospital is declared in Section 7(3) of the 2017 Act, which is as follows:

*“7. Conditions for registration and license:*

*....*

*(3) Every license granted under sub-section (1) shall be subject to the following terms and conditions:—*

*(c) that the clinical establishment shall not resort to any unethical or unfair trade practices including unfair pricing for different services;*

*(e) that such information is to be displayed and in such manner as may be prescribed;*

*(g) that such medical and other reports, records and documents shall be made available to the licensing authority or the service recipient or his representative on demand, as may be prescribed;*

*(l) that every clinical establishment shall maintain a Public Grievance Cell for lodging of any complaint regarding treatment, improper billing, deficit in service, attending staffs' behaviour etc. and for redressal thereof;*

*(m) that every clinical establishment shall set up a proper Help Desk to maintain regular and proper communication with the service recipients or their representatives regarding treatment, recipient's condition, regular billing etc. and for their proper counseling;*

*(n) that every clinical establishment shall immediately after coming into force of this Act, implement e-Prescription, maintain Electronic Medical Records and provide a set of all medical records and treatment details along with the discharge summary at the time of discharge of the service recipient;*

*(o) that every clinical establishment shall strictly follow the fixed rates and charges including the Package Rates for investigation, bed charges, operation theatre procedures, Intensive Care, ventilation, implants, consultation and similar*

*tests and procedures, and any additional treatment or procedure shall not attract additional charges over and above such fixed rates and charges including the Package Rates;*

*(p) that every clinical establishment shall provide proper estimates for treatments not covered in fixed rates and charges including the Package Rates, to the service recipients or representative of service recipients during initiation or due course of treatment, and final bills shall not exceed estimates by a certain percentage, as may be prescribed by the Government;*

*...*

18. The 2017 Act provides remedies against violations and excesses by clinical establishments by establishing an adjudicatory mechanism. Section 35 provides for the appointment of an Adjudicating Authority to address grievances concerning patient care services, billing irregularities, non-supply of records, and service deficiencies. Under Section 36, the West Bengal Clinical Establishment Regulatory Commission is established to supervise, adjudicate, and compensate the consumers/patients.

19. While Section 29 provides for imposition of major and minor penalties for deficiencies<sup>8</sup>, Section 34 provides for criminal liability for declared

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<sup>8</sup> “29. *Minor and major deficiencies:*

*(1) Whoever contravenes any provision of this Act or any rule made thereunder resulting in such minor deficiencies, that do not pose any imminent danger to the health and safety of any patient or public and can be rectified within a reasonable time, shall be liable to a penalty which may extend to fifty thousand rupees.*

*(2) Whoever contravenes any provision of this Act or any rule made thereunder resulting in such major deficiencies, that pose an imminent danger to the health and safety of any member of the public or patient and which cannot be rectified within a reasonable time, shall be liable to a penalty which may extend to ten lakh rupees.*

*Explanation.—For the purpose of this section “minor deficiencies and major deficiencies” shall have such meaning as may be prescribed.”*

offences and prescribes punishments.<sup>9</sup> In other words, the legislative scheme clearly establishes that disputes concerning billing practices, supply of medical records, or service-related grievances are primarily intended to be addressed as deficiencies for which compensation is payable, if found to be true. Without even indicating as to how and in which manner the criminal offence has been committed, it is not permissible for the complainant to proceed with prosecution by just mentioning Section 34 in the complaint. We do not deny the fact that that complainant may have certain service-related grievances and these could be addressed under Section 29 of the 2017 Act. In view of the above, we are of the opinion that no criminal offence even under Section 34 of the 2017 Act is made out.

20. Having considered the matter in detail, we are of the opinion that this is a fit case for exercising jurisdiction under Section 482 of CrPC to quash the criminal complaint and we are equally of the opinion that the High Court has failed to exercise such a power. In this view of the matter, we allow these appeals and set aside the judgement and order passed by the High Court in

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<sup>9</sup> “34. Offences and punishments:

(1) Notwithstanding anything contained in this Act, if any person—

(a) violates the conditions of registration and license under this Act, he shall be liable for imprisonment which may extend to three years; or

(b) causes death or injury of patient or service recipients due to negligence, shall be liable to punishment as provided in the Indian Penal Code, 1860.

(2) The prosecution, trial etc. for the purpose of sub-section (1) shall be as per the provision contained under the Code of Criminal Procedure, 1973.”

C.R.R. No. 967 of 2021 with CRAN No. 1 of 2021, dated 16.05.2023 and quash the Complaint Case No. C-533 of 2021.

21. Quashing of the above referred criminal complaint will have no bearing on the civil or statutory remedies that the complainant may exercise in accordance with law.

22. We place on record the assistance rendered by Mr. Gagan Gupta, learned Senior Advocate; along with Mr. Abhinay Sharma, Advocate on Record; Ms. Kirti Vyas, Advocate; and Mr. Kartik Rajpurohit, Advocate.

.....J.  
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.  
[ALOK ARADHE]

**NEW DELHI;  
MAY 12, 2026.**