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

% ***Date of Decision: 03.11.2026***

\# **CNR No.DLHC010430322026**

\+ **CRL.A. 909/2026, CRL.M.A.No.28212/2026**

ANSHU .....Appellant

Through: Mr. Siddharth Satija, Advocate (DHCLSC) along with Mr. Sriharsh Raj, Mr. Akash Sachan, Mr. Shashanka Tewari, Ms. Akanksha Bisht, Ms. Charu Sinha and Mr. Raghav Gupta, Advocates.

versus

NITIN KUMAR .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J (Oral.)

1. The appellant assails an order dated 17.03.2026 passed by the learned Principal District & Sessions Judge, North-East District, Karkardooma Courts, Delhi in MISC CRL No.50/2025.

2. By that order, on the application of the respondent, the learned Principal District & Sessions Judge directed that a complaint be made against the appellant for filing a fake medical certificate.

3. The factual conspectus is that the complaint of the appellant under the Protection of Women from Domestic Violence Act, 2005, was dismissed for non-prosecution on 09.10.2024.

4. In an appeal against that order, the appellant filed a medical certificate dated 09.10.2024. The same is as under:-

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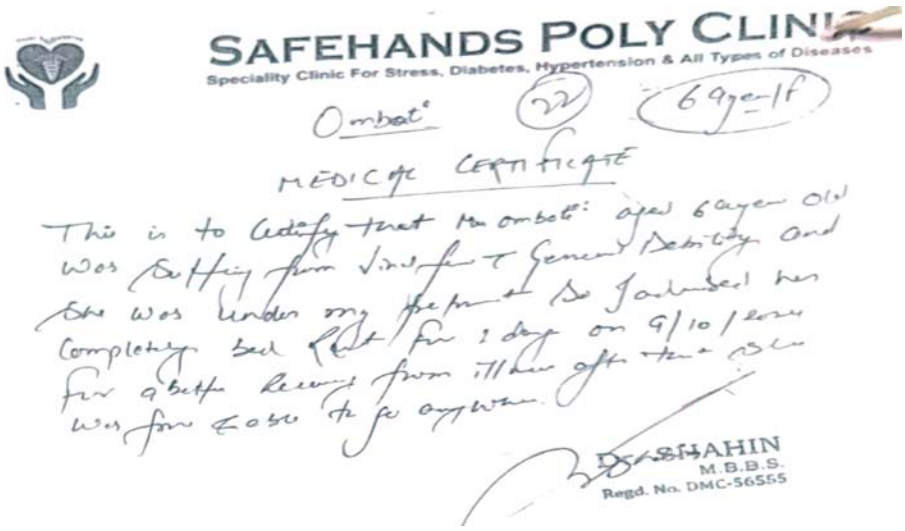

SAFEHANDS POLY CLINIC
Speciality Clinic For Stress, Diabetes, Hypertension & All Types of Diseases

Ombati (22) (69-1f)

MEDICAL CERTIFICATE

This is to certify that Mr ombati aged 69 years old was suffering from Viral fever & General Debility and he was under my treatment & advised him complete bed rest for 3 days on 9/10/2025 for early recovery from illness after that he was fit to go anywhere.

DR SHAHIN
M.B.B.S.
Regd. No. DMC-56555

5. On the objection of the respondent, the learned Principal District & Sessions Judge passed the following order on 18.10.2025:-

18.10.2025

Present : Appellant in person with LAC Sh. Atul Sharma
Respondent no.1 with counsel Sh. Ujjwal Kumar Goswami and Sh. Hritik Rana.
Respondent nos.2 to 5 have already been deleted from the array of parties vide order dated 20.05.2024

Arguments partly advanced on the appeal. During course of arguments, Ld. counsel for respondent no.1 submits that medical certificate relied upon by the appellant is fake since on inquiry he came to know that Dr. Shahin has been registered in Karnataka and no such clinic in the name of Safehands Poly Clinic is being run by Dr. Shahin at the given address. Further, the phone number mentioned in the medical certificate is not of Dr Shahin.

Direction be issued to the SHO concerned to verify the medical certificate purportedly issued by Dr Shahin and file the report on the next date.

Put up for awaiting verification report from the SHO concerned further arguments on appeal on **29.11.2025**.

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6. Thereafter, the SHO reported that the clinic had closed and had functioned only in 2019-20 and that Dr. Shahin was never associated with it and had issued no certificate. The report submitted by the SHO is as under:-

CA No 61/2025

Anshu V/s Nitin Kumar

Subject: Regarding verification report of medical certificate

Sir

It is submitted that this Hon'ble Court has directed the undersigned to file verification report of medical certificate issued by Dr. Shahin. The Medical Certificate allegedly issued by Dr. Shahin to one Ombati on a letter head having name of clinic namely SAFEHAND POLY CLINIC situated at I-26 Street No 10 near Mauni Baba Mandir Bramha Puri Delhi-53. A letter was also enclosed along with the summon issued by Delhi Medical Council having details of Dr Shahin along with the address.

HC Sachin No has visited the address where Mr. Moinuddin S/o Khalil Waris R/o D-31 GF Gali No 9 Kh No 1 ETC/57 Brhani Piuri appeared and stated that he is the owner of the property and he has purchased the property from Deepak Kumar Palta on 09/05/24 and SAFEHAND CLINIC was closed at that time. His statement has been recorded.

Shri Deepak Kumar Palta S/o Dharam Pal Palta R/o B-3/10 FF Krishna Nagar Delhi also called and he stated that he is a teacher in New Bhandari Public School. He further stated that his brother Rohit Palta is a doctor and he ran SAFEHANDS CLINIC in the year 2019 to 2020 and he closed within 2 years. Dr. Shaheen never worked with in the clinic. Presently Dr Rohit is SR in Ruhelkhhand Medical College. The statement of Deepak is enclosed herewith.

Further HC Brij Mohan visited the address of Shahin at Sikar Rajasthan and presently Dr Shahin is working as Medical Officer HCMS-1 Civil Hospital Rewari Haryana. She stated that she worked

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Delhi during 2021-2022 and she left Delhi in 2023. She also stated that she never associated with Safehand Clinic and she did not issue any medical certificated. Her hand-written statement is enclosed herewith.

7. On 23.12.2025, the learned Principal District & Sessions Judge recorded that the certificate was *prima facie* fake and the appellant withdrew her appeal.

8. After considering the appellant's reply and hearing both sides, the impugned order was thereafter passed on 17.03.2026. The same reads as under:-

17.03.2026

Present: Sh. Ujjawal Goswami and Sh. Hrithik Rana, Ld. Counsels for applicant.
Sh. Mohit Jain, Ld. Link LADC for non-applicant.

Arguments on the application filed under Section 340 Cr.PC heard.

It is the case of the applicant that in an appeal filed under Section 29 DV Act before this court, the non-applicant filed a medical certificate dated 09.10.24 stating the reason for her non appearance before the Ld. JMFC, North East on 09.10.2024 as medical exigency which resulted in the dismissal of her case. During the course of arguments on the said appeal, the Ld. Counsel for the respondent therein submitted that the said medical document was fake as per the inquiry conducted by him. On the basis of said claim, the Ld. Predecessor directed verification of the said medical certificate vide order dated 18.10.25.

On an inquiry conducted by the SHO concerned and as per the report filed by him dated 18.11.25, the said certificate was found to be fake. It is a matter of record that the said certificate was issued by one doctor Dr. Shaheen under the name of Safe Hands Polyclinic. The inquiry revealed that the said clinic was earlier being run by Dr. Rohit Palta in the year 2019-2020 and it was closed within two years. It was further revealed that Dr. Shaheen, at the time of inquiry was found working at [illegible]

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Officer, HCMS-I, Civil Hospital, Revari, Haryana. She stated to the Inquiring Officer HC Brij Mohan that though she worked in Delhi during 2021-2022 and left Delhi in 2023, but was never associated with Safe Hands Polyclinic and had not issued any medical certificate. Thus, it is apparent that the said certificate has been forged and fabricated by the non-applicant.

In reply, it is stated by the non-applicant that the said certificate was never filed by her with intent to mislead the court nor was filed to adjudicate the dispute on merits. She has further denied that she has knowingly filed the said false certificate submitting that she is a layman and is not aware about the intricacies of the medical procedure. Rest of the allegations have also been denied.

I have considered the submissions and the records of the application and appeal. The appeal has already been disposed of. The inquiry conducted under Section 340 Cr.PC as aforesaid has clearly established that the non-applicant had filed a forged medical document on record in order to succeed in the appeal which was filed against the order of dismissal of her complaint before the Ld. JMFC which was dismissed for non prosecution.

It was filed to show that she had reasonable ground for her absence on the day when her complaint was dismissed. Thus, she had tried to obtain favourable order on the basis of a forged document and has thus, interfered in the administration of justice. Hence, she is prima facie guilty for the offence punishable under Section 192 read with Section 193 IPC.

The present observations be treated as a complaint and a copy thereof, be sent to the court of Ld. JMFC concerned through Ld. CJM, North East with directions to try it as a complaint case. The Ld. APP of the court concerned of the Ld. JMFC shall represent this court as complainant in case the need so arise.

Application disposed of with the above directions.

File be consigned to Record Room.

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9. Learned counsel for the appellant submits as follows:

i. It is submitted that the requirement that it be expedient in the interest of justice to make a complaint is not satisfied. It is submitted that the appellant derived no benefit from the certificate, which was obtained outside the Court and in good faith;

ii. It is submitted that in terms of Section 343(1) of the CrPC, the case cannot be tried as a complaint case;

iii. It is submitted that the impugned order contains observations which amount to conclusions on guilt such that the trial stands foreclosed; and

iv. The certificate was not in the custody of the Court when the alleged offence was committed so that in view of Paragraph 10 of ***Iqbal Singh Marwahv.MeenakshiMarwah***(2005) 4 SCC 370, no complaint by the Court was called for.

10. I have given my thoughtful consideration to the said submissions.

11. At the outset, it is noted that the certificate was filed and the application for prosecution was made after 01.07.2024. As such, the procedure is governed by Section 379 of the BharatiyaNagarikSurakshaSanhita, 2023 (BNSS). The reference in the impugned order to Section 340 CrPC is a misdescription which causes no prejudice.

12. As to the first submission of the learned counsel for the appellant, it is trite that the Court is not bound to make a complaint merely because an offence appears to have been committed. It must form an opinion that it is expedient in the interest of justice to do so. In this regard, it is apposite to refer to the following observations in***Iqbal Singh Marwah*** (supra):

> *23. In view of the language used in Section 340 CrPC the court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the section is conditioned by the words "court is of opinion that it is expedient*

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> *in the interests of justice". This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(1)(b). This expediency will normally be judged by the court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the court may not consider it expedient in the interest of justice to make a complaint. The broad view of clause (b)(ii), as canvassed by learned counsel for the appellants, would render the victim of such forgery or forged document remediless. Any interpretation which leads to a situation where a victim of a crime is rendered remediless, has to be discarded.*

13. The expediency is to be judged having regard to the effect or impact which the commission of such offence has upon the administration of justice rather than the magnitude of injury to an individual. In the present case, the opinion is well found because the appellant herself filed the certificate in her own appeal as the only explanation for her absence. Moreover, its genuineness was tested by verification directed by the Court and not on the plea of the respondent alone.

14. Further, the verification shows that the concerned clinic from which the certificate is alleged to have been obtained was not functioning at the relevant time and the doctor did not issue the certificate.

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15. These facts have not been controverted.

16. The appellant was duly heard before the order was passed.

17. In the opinion of this Court, a document of this kind filed in Court proceedings to explain a default and to obtain restoration bears directly on the administration of justice. This is precisely the class of case in which the interest of justice calls for a complaint.

18. The plea that the appellant did not benefit from the production of such a document does not help the appellant. The certificate was filed to obtain restoration of her complaint, and the appeal was withdrawn only after the certificate was found to be *prima facie* fake.

19. As to the submissions regarding Section 343(1) of the CrPC (now Section 382 (1) of the BNSS), it is trite that a Magistrate to whom a complaint is made by a Court under these provisions is to deal with the case as far as may be as if it were instituted on a police report notwithstanding the provisions applicable to complaint case.

20. The submission is correct as to the statement of procedure but it goes only to the manner in which the case is to be tried by the learned Magistrate. The same furnishes no ground to interfere with the decision to make the complaint. The learned Magistrate shall necessarily proceed in terms of section 382 (1) BNSS, in accordance with law.

21. As to the third submission, at the stage of deciding whether to make a complaint, the Court only forms a *prima facie* opinion. It does not and cannot decide guilt.

22. It is clarified that every observation in the impugned order is only a *prima facie* view recorded for the limited purpose of deciding whether a complaint should be made. It shall not be construed as a finding that the certificate is forged or that the appellant knew it to be false or used it

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dishonestly.

23. The learned Magistrate shall decide every question including the genuineness of the certificate and the knowledge and intention of the appellant only on the basis of the evidence led in the trial, uninfluenced by the observations made in the impugned order.

24. As regards the fourth submission, it is noticed that ***Iqbal Singh Marwah*** (supra) is concerned with Clause b(ii) of Section 195(1) of CrPC which relates to offence of forgery and use of forged document under Sections 463, 471, 475 and 476 of the Indian Penal Code, 1860 "in respect of a document produced or given in evidence in a proceeding in any Court". It was held that the bar under that clause applies only where such an offence is committed after the document is produced in Court *i.e.*, while it is in *custodia legis*. In doing so, the Supreme Court contrasted Clause b(ii) with Clause b(i) observing that the offences in Clause b(i) clearly relate to giving or fabricating false evidence in judicial proceedings and having a direct co-relation with the proceedings in the Court of justice. In this regard, reference may be made to Paragraph 10 of ***Iqbal Singh Marwah*** (supra) as under:

> *"**10.** The scheme of the statutory provision may now be examined. Broadly, Section 195 CrPC deals with three distinct categories of offences which have been described in clauses (a), (b)(i) and (b)(ii) and they relate to (1) contempt of lawful authority of public servants, (2) offences against public justice, and (3) offences relating to documents given in evidence. Clause (a) deals with offences punishable under Sections 172 to 188 IPC which occur in Chapter X IPC and the heading of the Chapter is — "Of Contempts of the Lawful Authority of Public Servants". These are offences which directly affect the functioning of or discharge of lawful duties of a public servant. Clause (b)(i) refers to offences in Chapter XI IPC which is headed as — "Of False Evidence and Offences Against Public Justice". The*

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> *offences mentioned in this clause clearly relate to giving or fabricating false evidence or making a false declaration in any judicial proceeding or before a court of justice or before a public servant who is bound or authorised by law to receive such declaration, and also to some other offences which have a direct correlation with the proceedings in a court of justice (Sections 205 and 211 IPC). This being the scheme of two provisions or clauses of Section 195 viz. that the offence should be such which has direct bearing or affects the functioning or discharge of lawful duties of a public servant or has a direct correlation with the proceedings in a court of justice, the expression "when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any court" occurring in clause (b)(ii) should normally mean commission of such an offence after the document has actually been produced or given in evidence in the court. The situation or contingency where an offence as enumerated in this clause has already been committed earlier and later on the document is produced or is given in evidence in court, does not appear to be in tune with clauses (a)(i) and (b)(i) and consequently with the scheme of Section 195 CrPC. This indicates that clause (b)(ii) contemplates a situation where the offences enumerated therein are committed with respect to a document subsequent to its production or giving in evidence in a proceeding in any court."*

25. The complaint directed here is for the offence of fabricating false evidence under Section 192 read with Section 193 of the Indian Penal Code (corresponding to sections 228 and 229 of the BNS), which fall in Clause b(i) [now Clause b(i) of section 215 (1) of the BNSS] and not for forgery under Clause b(ii).

26. The essence of the allegation is that the appellant used the certificate as evidence in CA No. 61/2025 to explain a default. The alleged offence is thus committed in, or in relation to, a proceeding in Court and directly affects the administration of justice. The *custodialegis* limitation laid down in ***Iqbal Singh Marwah*** (supra) applies to forgery under Clause (b)(ii) and does not, therefore,

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avail the appellant.

27. In the circumstances, the appeal is dismissed.

28. Let a copy of this order be sent to the learned Principal District & Sessions Judge, North-East District, Karkardooma Courts, Delhi for information.

SACHIN DATTA, J

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