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

Reserved on: 19.08.2026
Pronounced on: 22.09.2026
Uploaded on: 22.09.2026

\# **CNR No. DLHC010300952023**
\+ **CRL.M.C. 5490/2023 & CRL.M.A. 20762/2023**

VIKAS BHARDWAJ .....Petitioner

Through: Mr. Sushil Kumar Dubey, Adv. (through VC)

versus

C. B. I. .....Respondent

Through: Mr. Akhilesh SPP for CBI along with Ms. Anchal Kashyap, Adv.

\# **CNR No. DLHC010466182023**
\+ **CRL.M.C. 8489/2023 & CRL.M.A. 31694/2023**

MADHUKESHWAR MANUNATH HEGDE .....Petitioner

Through: Mr. Sanjay Kumar, Adv. (through VC)

versus

CBI .....Respondent

Through: Mr. Akhilesh SPP for CBI along with Ms. Anchal Kashyap, Adv.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present petitions are connected matters arising out of the same ***FIR/RC No. CY-1/2010/E/0003*** dated 01.04.2010, registered by the CBI, EOU-IX/EO-III, Delhi, in relation to the same tender process concerning the supply of six Flame Photometers under the Food and Drugs Capacity Building Project. Both the petitions are challenging the Order on Charge dated 13.02.2023 passed in ***CBI No. 416/2019***, titled ***CBI v. M/s Ambalal***

Sarabhai Enterprises Ltd. & Ors., and seeking quashing of the consequential criminal proceedings arising out of the aforesaid FIR/RC insofar as they concern the respective petitioners. Since both matters arise from the same set of facts, tender process, investigation and Order on Charge, they are being heard as connected matters.

FACTUAL MATRIX

2. Briefly stated, the case of the petitioners is that the present proceedings arise out of ***FIR/RC No. CY-1/2010/E/0003*** dated 01.04.2010, registered by the CBI on the basis of a complaint made by Sh. S.K. Gupta, the then Under Secretary, Ministry of Health and Family Welfare, Government of India. The allegations were that M/s Ambalal Sarabhai Enterprises Ltd., also known as M/s Systronics, had entered into a criminal conspiracy with unknown officials of Hospital Services Consultancy Corporation (HSCC) in connection with/relation to a tender under the Food and Drugs Capacity Building Project during the period 2004 to 2006 and, in furtherance thereof, had submitted eight forged/false performance certificates in the tender for supply of six Flame Photometers, resulting in resulting in alleged pecuniary loss to the Central Government and corresponding gain to M/s Systronics.

3. The allegation in the case was that M/s Systronics, New Delhi, had submitted, along with its bid documents, a performance statement claiming supply of more than five Flame Photometers during the period from 01.12.2002 to 30.11.2005. The performance statement contained the names of eight purchasers, namely, M/s Chinar Pharmaceuticals; University Institute of Engineering and Technology, Kurukshetra University; M/s Mitra Industries Pvt. Ltd.; M/s New Era Scientific

Corporation; M/s Hospicare Biomedical Pvt. Ltd.; The Energy and Resources Institute; M/s Aar Vee & Company; and the Assistant Director, Soil Testing, Rudrapur.

4. During investigation, the officials/persons of the aforesaid firms and organisations stated that their respective firms had purchased the Flame Photometers from M/s Systronics, but that the performance certificates in question had not been issued by their respective firms, companies or organisations. The certificates were accordingly treated by the investigating agency as not genuine. It was further revealed that the petitioner in CRL.M.C.-8489/2023, M.M. Hegde was the Branch Manager of the Delhi Office of M/s Systronics during the period 2004 to 2006 and was alleged to have attested/verified the copies of the eight performance certificates submitted with the bid documents by putting his signature along with the office stamp of M/s Systronics. The handwriting expert, however, did not give a definite opinion regarding the signatures attributed to Mr. Hegde on the photocopies of the performance certificates, and the original eight performance certificates were not recovered during investigation.

5. As regards the petitioner in ***CRL.M.C.-5490/2023***, Vikas Bhardwaj, it is stated that he had been appointed by M/s Systronics as its liaising agent to follow up the tender with HSCC. The prosecution case alleged that the certificates were prepared in the office of M/s Systronics on 05.12.2005, a day before the actual opening of the tender, by Vikas Bhardwaj with the assistance of Mr. Hegde and three employees of M/s Systronics. Mr. Bhardwaj has stated that he was not the person who submitted the bid documents and was not involved in finalisation of the

bid documents, which were finalised and submitted by the staff of M/s Systronics.

6. Out of the eight certificates, five were alleged to have been prepared using the computer placed in the office of the Branch Manager of M/s Systronics; however, forensic examination of the seized hard disk did not establish the existence of the said certificates or traces thereof. The remaining three photocopies were sent for examination by the GEQD, which confirmed that the photocopy relating to M/s Mitra Industries Pvt. Ltd. appeared to have been typed on the English Remington manual typewriter of M/s Systronics, but the person who had typed the certificate could not be conclusively established. The originals of the said certificates were also not recovered during investigation.

7. It is stated that in the first closure report, the CBI had recorded that no concrete oral or documentary evidence had been gathered linking the petitioners with the preparation of the performance certificates or the alleged conspiracy, and that there had been no monetary or financial loss to the Government of India and no allegation of short supply or malfunctioning of the material supplied by M/s Systronics. The learned Trial Court, vide order dated 29.09.2011, did not accept the said closure report and directed further investigation on various issues, including whether the performance certificates had been filed for wrongful gain to M/s Systronics and wrongful loss to the Government and competing bidders; whether the certificates had knowingly been used as genuine documents; whether the original performance certificates were required under the tender conditions; and whether the same procedure had been followed in respect of the other bidders.

8. Pursuant to the aforesaid directions, further investigation was conducted by the CBI and another closure/final report was filed. The said report recorded that M/s Systronics was found to be the lowest bidder out of the three bidders on the basis of technical and commercial evaluation and had subsequently supplied the six Flame Photometers under the contract. It was further recorded that there was no complaint or allegation regarding short or spurious supply or improper functioning of the supplied equipment, that the scientific opinion regarding the signatures attributed to Mr. Hegde on the alleged false certificates was inconclusive, and that the actual forger or person who prepared the certificates could not be pinpointed.

9. The said closure report further recorded that the eight performance certificates submitted with the bid documents had not been issued by the respective companies. It was also recorded that filing of the original performance certificates was not mandatory under the terms and conditions of the tender, that the mandate of the Tender Scrutiny Committee did not extend to checking the genuineness of the performance certificates submitted with the bid, that the contents of the performance certificates were otherwise true inasmuch as M/s Systronics had in fact supplied the equipment to the eight firms in the past and the equipment was working satisfactorily, and that the procedure adopted for processing the bids and awarding the contract had been followed, with no involvement of public servants revealed.

10. It is further stated that the investigation had recorded the statements of three employees of M/s Systronics, namely Ms. Sulochana, Sh. Pankaj Manjhi and Sh. V.K. Gupta, concerning the preparation and signing of

certain performance certificates. The petitioners rely upon the fact that, apart from the said oral statements, there was no expert opinion or corroborative evidence to substantiate the alleged acts attributed to them. It was also recorded that the employees who had initially offered to make statements under Section 164 Cr.P.C. subsequently refused to make such statements before the concerned Court.

11. After completion of the further investigation, the CBI again concluded that sufficient evidence had not emerged against the persons concerned and submitted a closure/final report under Section 173 Cr.P.C. on 08.05.2013. Thereafter, vide order dated 01.03.2014, the learned Trial Court directed the CBI to submit the report in proper form mentioning the names and addresses of M.M. Hegde and Vikas Bhardwaj for taking cognizance. In compliance thereof, the CBI submitted its final report on 15.09.2015, and cognizance was taken by the learned CMM, Rouse Avenue Courts, New Delhi, on 10.04.2019.

12. Thereafter, vide order dated 13.02.2023, the learned Trial Court considered the material on record and held that a prima facie case was made out against the petitioner M.M. Hegde and co-accused Vikas Bhardwaj for offences under Sections 120-B, 420 and 471 IPC. The learned Trial Court, however, discharged both accused in respect of the offence under Section 468 IPC. Relevant portion of the impugned order quoted hereinbelow—

> *I have heard the arguments and perused the record.*

In the case of State ofBihar vs Ramesh Singh, AIR· 1977 SC 2018, it was observed by the Hon'ble Supreme Court of India that at the initial stage if there is a suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused.

Then, in the case of State of T. N. vs N. Suresh Rajan (2014) 11 SCC 709, it was held by the Hon'ble Supreme Court of India that at the stage of framing of charge probative value of the materials has to be gone into and the Court is not expected to go deep into the matter and hold that the material would not warrant a conviction and what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. It was held that the law does not permit a mini trial at this stage.

The statements u/s 161 Cr.P.C. of the witnesses LW6 Sh. T. G. Nandkumar, LW-7 Dr. Ajay Kumar Verma, LW-8 Dr. Rajesh Agnihotri, LW-9 Sh. Rajeshwar Bhardwaj, LW-11 Sh. Akhil Gupta, LW-12 Sh. Deepak Mehendiratta, LW-15 Sh. Sunil Kumar, LW-20 Sh. S. K. Dhall and LW-21 Sh. Parag Aggarwal are all to the effect that the performance certificates allegedly attributed to their respective business concerns have not been issued by them to MIs Systronics although they had all purchased and received Flame Photometers from Mis Systronics. The said statements are prima fade corroborative of the allegations of forgery of the performance certificates.

From the statements u/s 161 Cr..C. of the members of the Tender Scrutiny Committee of HSCC i.e. LW-10 Sh. Ajay Suri and LW-18 Sh. S. A. Usmani as well as LW-16 Sh. Virendra Kumar Singh, the then Chief General Manager, HSCC under whose supervision the tender in question was processed it is clear that one of the terms of the post qualification of the bidding documents was that the bidder was required to furnish the information on past supplies and their satisfactory performance and according to LW-16 non-compliance of the condition would constitute a major deviation of the tender norms and could result in ilisquali#cation of ·the· bidder. arid the bidder was required to attach the certificate from the purchaser. certifying the satisfactory performance of the equipment so supplied. Thus, if the performance certificates had not been attached alongwith the bid it could have resulted in disqualification and so the performance certificates were an integral part of the bid documents for fulfilling the eligibility criteria.

According to the statement of LW-13 · Sh. Navin Kumar, who had been working as Branch Manager, Mis Systronics, Delhi since July/August 2007, accused M. M. Hegde who was posted as BranchManager of the Delhi office from June 2004 to January 2006 had informed the subordinate office staff that the company would be applying for the tender and Sh. Pankaj Kumar Majhee was directed by the accused M. M. Hegde to collect the tender application/documents for submitting the same after completing the documentation work. Further in his statement u/s 161 Cr.P.C. Sh. Navin Kumar stated that accused Vikas Bhardwaj contacted accused M. M. Hegde for doing the liaising and consultancy work for the *tender and had informed the company that he was having experience in handling the tender work and would ensure that the tender was awarded to Mis Systronics.*

LW-14 Sh. Pankaj Kumar Majhee in his statement u/s 161 Cr.P.C. stated that on the instructions of accused M. M. Hegde he had gone to the office of HSCC for collecting the documents pertaining to the tender in question. It has come out in the statement u/s 161 Cr.P.C. of Sh. Pankaj Kumar Majhee that on 05.12.2005, the accused Vikas Bhardwaj came to their office and met the accused M. M. Hegde in his chamber and asked for the documents pertaining to the tender which were thereafter handed over by Sh. Pankaj Kumar Majhee to the accused Vikas Bhardwaj on the instructions of accused M. M. Hegde and also that the accused Vikas Bhardwaj prepared the performance certificates in the office cabin of the accused M M Hegde and handed over three photocopies of letter heads of the companies i.e. M/s New Era Scientific Corporation, Mitra Industries Pvt Ltd and Office of Assistant Director (Soil Testing) to Ms. Sulochana to type the same. It has further come out in the statement of LW-14 Sh. Pankaj Kumar Majhee that accused M. M. Hegde signed on the eight copies of the performance certificates the next day in the morning i.e. 06.12.2005, which were then submitted in the office of HSCC India by LW-14.

Prima facie, statements u/s 161 Cr.PC. of the prosecution's witnesses Sh. Navin Kumar and Sh. Pankaj Kumar Majhee point to the active role of accused persons in pursuing the award of the tender and it is no defence for the accused persons to say that the company Mis Systronics has not *been made an accused especially when no evidence on record suggests that the company through its Board of Directors or other higher officials had instructed the accused persons to ensure that the tender is awarded to it at any cost.*

LW-22 Ms. Sulochana has also prima facie corroborated the version of LW-14 submitting in her statement u/s 161 Cr.P.C. that on 05.12.2005 at around 04.00 pm accused M.·M. Hegde Branch Manager specially introduced accused Vikas Bhardwaj to her saying that the accused Vikas Bhardwaj would do the liaising work for the tender of the HSCC and asked her to follow the instructions of accused Vakas Bhardwaj. LW-22 stated inter alia that the· accused Vikas Bhardwaj asked her to type on blank photocopies of letterheads of the companies M/s New Era S.~ientific Corporation,. Mitra Industries Pvt. Ltd. and office of Assistant Director (Soil Testing) and also dictated the contents alongwith dates which were ante-dated and after typing the same, LW-22 handed over the same to ,accused Vikas Bhardwaj and informed accused M. M. Hegde about the same. Further, LW-22 stated in her statement u/s 161 Cr.P.C. that she signed on the performance certificate printed on photocopy of the letterhead of MIs Hospicare Biomedical Pvt. Ltd. on the instructions of the accused Vikas Bhardwaj and informed accused M. M. Hegde about the same. LW-17 Sh. Vijay Kumar Gupta, who was working as a peon in M/s Systronics stated in his statement u/s 161 Cr.PC. that the accused Vikas Bhardwaj got him to make false sign on a certificate of Chinar Pharmaceuticals.

The fact that LW-14 Sh. Pankaj Kumar Majhee, LW-17 Sh. Vijay Kumar Gupta and LW-22 Ms.

Sulochana refused to give statements u/s 164 Cr.P.C., as noted in the final report, 'does not at this stage diminish the prima facie value to be attached to the statements of these witnesses u/s 161 Cr.PC. and the prosecution is required to be given a chance _to examine these witnesses on oath during trial to establish the allegations against the accused persons.

From the statements of the prosecution's witnesses u/s 161 Cr.P.C. especially of LW-14 Sh. Pankaj Kumar Majhee and LW-22 Ms. Sulochana and other documents on record, prima facie strong suspicion arises that the accused persons M. M. Hegde and Vikas Bhardwaj entered into a criminal conspiracy -sometime during October-December 2015 (after tender of HSCC was advertised) for getting prepared forged documents i.e. performance certificates and using the same fraudulently by way of getting them presented on 06.12.2005 to the HSCC for the purpose of satisfying one of the conditions for entering Mis Systronics as a bidder in the tender of HSCC and inducing HSCC to consider M/s Systronics eligible for participating in the bidding process and subsequently awarding the tender to it which HSCC would not have done had it known that the performance certificate filed alongwith the bid documents were forged thereby cheating HSCC and also the genuine bidders Mis Yorco Sales Pvt. Ltd and Mis Elico Ltd. who were wrongly deprived of a fair opportunity to be chosen for the award of tender. The statements u/s 161 Cr.PC. of the tender scrutiny committee members LW-10 Sh. Ajay Suri and LW-18 Sh. S. A. Usmani are relevant to note in this regard as both witnesses have stated therein that apart from Mis Systronics, two other companies i.e. Mis Yorco Sales Pvt Ltd *and Mis Elico Ltd. were found technically and commercially responsive. As a consequence of the tender awarded to Mis Systronics flowing from the deception purportedly practiced by the accused persons, the technical equipment was supplied to HSCC which paid 90% of the bill amount of Rs.2,51,522/- to Mis Systronics~ Thus, que to the alleged cheating the tender was awarded and payment was made by HSCC which in such circumstances would tantamount to wrongful loss to HSCC. As to what was the motive and incentive for the accused persons to commit the alleged acts would have to be shown in evidence by the CBI.*

The· fact that the original performance certificates could not be recovered during the course of investigation is not a ground warranting discharge of . the accused persons and the effect thereof is to be seen at a later stage after trial.

From a scrutiny of the final report and annexed documents, inter alia statements u/s 161 Cr.PC. of the witnesses, documents pertaining to the tender in question etc. there is sufficient material on record to frame charges against the accused persons M. M. Hegde and Vikas Bhardwaj for the offences of criminal conspiracy u/s 120-B IPC and the offences of cheating and fraudulently or dishonestly using forged documents as genuine (in furtherance to the criminal conspiracy). The offence u/s 468 IPC is not made out even prima facie against either- of the accused persons as the allegations are that the accused persons got prepared the forged documents and not that they were the makers of the documents themselves. As per Sheila Sebastian vs R. Jawaharaj (2009) 15 sec, it is the maker of the document who alone is liable for the offence u/s 468 IPC. Thus, both the *accused persons are discharged for the offences u/s 468 IPC.*

Accordingly, put up for framing of charge u/s 120-B IPC, u/s 420/120-B IPC and 471/120-B IPC against accused persons M. M. Hegde and Vikas Bhardwaj on 25.03.2023.

13. Aggrieved by the aforesaid order dated 13.02.2023, the petitioners M.M. Hegde and Vikas Bhardwaj have each preferred separate petitions under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the ***FIR/RC No. CY-1/2010/E/0003*** dated 01.04.2010 and the order on charge dated 13.02.2023 passed by the learned CMM, Rouse Avenue Courts, New Delhi. The two petitions, arising out of the same FIR and the same order on charge, are connected matters. Vide order dated 21.11.2023, ***CRL.M.C. 5490/2023*** and ***CRL.M.C. 8489/2023,*** being connected matters arising out of the same FIR, were listed before the learned co-ordinate Bench. Vide order dated 29.04.2024, the proceedings before the learned Trial Court were stayed, and the said interim order has continued thereafter.

Submissions on behalf of Petitioner- Vikas Bhardwaj

14. Learned counsel for the petitioner submits that the petitioner has approached this Court under Section 482 Cr.P.C. seeking quashing of the Order on Charge dated 13.02.2023 as well as the consequential proceedings arising out of FIR/RC No. CY-1/2010/E/0003.

15. Learned counsel submits that the CBI itself filed closure reports twice during the course of investigation. It is submitted that, despite further investigation pursuant to the directions of the learned Trial Court,

the investigating agency could not gather any concrete oral or documentary evidence connecting the petitioner with the preparation of the alleged forged performance certificates or the alleged conspiracy.

16. It is submitted that the petitioner was appointed by M/s Systronics only as a liaising agent to follow up the tender with HSCC and that he was neither responsible for finalising the bid documents nor was he the person who submitted the bid on behalf of M/s Systronics. It is contended that the bid documents were submitted under the signature of the Branch Manager, M.M. Hegde.

17. Learned counsel further submits that the original eight performance certificates were never recovered during investigation. The handwriting expert also failed to give any definite opinion regarding the signatures attributed to M.M. Hegde. Thus, the prosecution has been unable to establish who actually prepared or forged the alleged certificates.

18. It is further submitted that, out of the eight certificates, five were allegedly prepared on the computer situated in the office of the Branch Manager; however, forensic examination of the hard disk did not establish the existence of the said certificates or any trace thereof. As regards the remaining three certificates, the GEQD examination could only establish that the photocopies appeared to have been typed on the typewriter of M/s Systronics, but could not establish the identity of the person who had typed them. The originals of those certificates were also not recovered.

19. Learned counsel submits that the only material relied upon against the petitioner is the statements of three employees of M/s Systronics, namely Ms. Sulochana, Sh. Pankaj Manjhi and Sh. V.K. Gupta. It is submitted that even these statements, when examined individually, do not

establish the petitioner's involvement in the preparation of all the alleged certificates.

20. In particular, learned counsel submits that Ms. Sulochana stated that she typed certain certificates on the basis of dictation allegedly given by the petitioner, whereas she herself signed only one certificate relating to Hospicare Biomedical Pvt. Ltd. Similarly, Pankaj Manjhi stated that the petitioner had arranged a performance certificate and asked him to sign one relating to Aar Vee & Company, while V.K. Gupta stated that he had signed one certificate relating to Chinar Pharmaceuticals at the asking of the petitioner. Learned counsel submits that none of these witnesses has stated that the petitioner himself forged the signatures appearing on the certificates or that he had personal knowledge that the certificates were forged.

21. It is further submitted that there is no expert opinion or independent corroborative material establishing that the signatures allegedly made by the said employees were actually made by them, or connecting the petitioner with the remaining certificates. The actual author or forger of the alleged documents could not be identified during investigation.

22. Learned counsel also relies upon the findings recorded in the CBI's closure report that M/s Systronics was the lowest bidder, that the six Flame Photometers were subsequently supplied in accordance with the contract, and that there was no allegation of short supply, spurious supply or improper functioning of the equipment. It is therefore submitted that no monetary or financial loss was caused to the Government.

23. It is further submitted that submission of original performance certificates was not mandatory under the tender conditions, and that the

mandate of the Tender Scrutiny Committee did not extend to independently verifying the genuineness of the certificates. The investigation also did not reveal involvement of any public servant in the tender process.

24. Learned counsel accordingly submits that the material on record does not disclose the essential ingredients of Sections 120-B, 420 and 471 IPC against the petitioner. It is contended that merely dictating the contents of certain certificates or asking employees to sign them, without proof of knowledge that the documents were forged or of an intention to deceive, cannot by itself establish the offences alleged against the petitioner.

25. It is, therefore, submitted that the impugned Order on Charge dated 13.02.2023 suffers from non-appreciation of the material collected during investigation and that continuation of the criminal proceedings against the petitioner would amount to an abuse of the process of law. Learned counsel consequently prays that the Order on Charge dated 13.02.2023 and the consequential proceedings arising out of FIR/RC No. CY-1/2010/E/0003 be quashed qua the petitioner Vikas Bhardwaj.

Submissions on behalf of the Petitioner- M. M. Hegde

26. Learned counsel submits that the petitioner was merely working as the Branch Manager of the Delhi office of M/s Systronics during the relevant period and is alleged to have attested/verified copies of the performance certificates. However, the investigation has failed to establish that the petitioner had prepared, forged or caused the preparation of any of the alleged performance certificates.

27. It is further submitted that the original eight performance

certificates were never recovered and the handwriting/forensic examination regarding the signatures attributed to the petitioner remained inconclusive**.** Further, although five certificates were alleged to have been prepared on a computer situated in the office of the Branch Manager, forensic examination of the seized hard disc did not reveal the existence or any electronic trace of the said certificates. As regards the remaining certificates, the forensic examination could only establish that they had been typed on a typewriter belonging to M/s Systronics, but could not identify the person who had typed them.

28. Learned counsel further submits that the CBI itself had initially filed a closure/final report recording that no concrete oral or documentary evidence had been collected connecting the accused persons with the preparation of the alleged certificates or the alleged conspiracy. Even after further investigation pursuant to the order dated 29.09.2011, the CBI once again submitted a closure/final report and could not identify the actual maker or forger of the alleged documents.

29. It is also submitted that M/s Systronics was the lowest bidder, the six Flame Photometers were duly supplied under the contract, and there was no complaint regarding short supply, spurious supply or malfunctioning of the equipment. Accordingly, it is contended that no monetary or financial loss was caused to the Government of India**.**

30. Learned counsel further submits that the tender conditions did not require submission of the original performance certificates**,** nor was the Tender Scrutiny Committee required to verify their genuineness. None of the participating bidders had submitted original performance certificates, and no involvement of any public servant was ultimately established.

31. It is therefore contended that the material collected during investigation does not disclose the essential ingredients of the offences of criminal conspiracy, cheating or knowingly using a forged document as genuine against the petitioner. The petitioner's position as Branch Manager or his alleged attestation of the documents, by itself, cannot establish his knowledge of the alleged forgery or participation in the alleged conspiracy.

32. Learned counsel accordingly submits that, in the absence of any legally sustainable material directly connecting the petitioner with the alleged forgery or conspiracy, continuation of the criminal proceedings would amount to an abuse of the process of law**.** It is, therefore, prayed that the Order on Charge dated 13.02.2023 be set aside qua the petitioner and the consequential criminal proceedings arising out of FIR/RC No. CY-1/2010/E/0003 be quashed.

Submissions on behalf of the Respondent/CBI

33. Learned counsel appearing on behalf of the Respondent/CBI relies upon the status report and submits that, pursuant to the investigation, it was found that M/s Systronics had submitted forged performance certificates along with its bid documents to satisfy the eligibility criteria for the tender.

34. It is submitted that the investigation revealed that the said performance certificates had not been issued by the respective purchasers and were forged. The statements of employees of M/s Systronics, namely Pankaj Kumar Majhee and Sulochna, indicate that certain forged certificates were prepared and signed at the office of M/s Systronics under directions of the present petitioners, Vikas Bhardwaj and MM Hegde.

35. Learned counsel further submits that the forged certificates were material to the tender process, as compliance with the past-performance requirement was an essential eligibility condition. On the basis of the said documents, M/s Systronics was treated as eligible and was ultimately awarded the tender, thereby depriving the other technically and commercially responsive bidders of a fair opportunity.

36. It is further submitted that the learned Trial Court, after considering the material on record, including the statements of the prosecution witnesses recorded under Section 161 CrPC and the other documents, found a prima facie strong suspicion against the accused persons and accordingly passed the order dated 13.02.2023. Learned counsel submits that, at the stage of framing of charge, the Court is only required to examine whether a prima facie case or strong suspicion exists and is not required to conduct a mini-trial or assess the evidence as if determining guilt after trial.

37. Learned counsel accordingly submits that the issues regarding the authorship of the forged certificates, the evidentiary value of the statements of the employees, and the absence of original certificates are matters to be tested during trial and cannot be conclusively adjudicated at the present stage.

38. It is, therefore, submitted that no ground is made out for interference with the order dated 13.02.2023 or for quashing of the proceedings, and the present petition deserves to be dismissed.

<u>FINDINGS AND ANALYSIS</u>

39. This Court has heard learned counsel for the petitioners as well as learned counsel appearing for the CBI and has perused the material placed

on record, including the impugned order on charge, the statements of the witnesses recorded during investigation and the reports submitted by the investigating agency.

40. The short question which arises for consideration is whether, on a consideration of the material collected during investigation as it stands, there is sufficient ground to proceed against the petitioners for the offences punishable under Sections 120-B, 420 and 471 IPC, or whether the impugned order on charge suffers from such illegality or perversity as would warrant interference by this Court in exercise of its jurisdiction under Section 482 Cr.P.C.

41. At the stage of framing of charge, the Court is not required to conduct a meticulous appreciation of evidence or undertake a mini-trial. The Court has to examine the material placed before it for the limited purpose of determining whether the facts emerging from such material, taken at their face value, disclose the existence of the ingredients of the alleged offences and give rise to a prima facie case or grave suspicion against the accused. At the same time, the jurisdiction under Section 482 Cr.P.C. can be exercised where, even upon accepting the allegations and the material relied upon by the prosecution at their face value, no offence is made out or where continuation of the proceedings would otherwise amount to an abuse of the process of law. The present case has, therefore, to be examined within these parameters.

42. The principal submission of the petitioners is that the CBI itself submitted closure reports on two occasions and that, despite further investigation, the investigating agency could neither identify the person who actually forged the certificates nor recover the original certificates. It

is also contended that the handwriting opinion regarding the signatures attributed to petitioner M.M. Hegde remained inconclusive and that the forensic examination of the seized hard disk did not reveal the alleged certificates.

43. The aforesaid circumstances are certainly matters which may be relied upon by the petitioners at the stage of trial. However, the opinion expressed by the investigating agency in a final report is not conclusive upon the Court. The Court is required to independently examine the material forming part of the record for determining whether sufficient ground exists to proceed against the accused. In the present case, the learned Trial Court declined to accept the closure report and directed further investigation vide order dated 29.09.2011. Thereafter, notwithstanding the opinion of the investigating agency, cognizance was ultimately taken and the learned Trial Court, upon consideration of the material placed before it, found sufficient ground to frame charges against the petitioners. The mere filing of closure reports, therefore, cannot by itself furnish a ground for quashing the proceedings if the material otherwise discloses a prima facie case.

44. The question, therefore, is whether the material relied upon by the learned Trial Court provides a basis for the conclusion that the petitioners were prima facie involved in the preparation, procurement and subsequent use of the alleged false performance certificates.

45. Insofar as petitioner Vikas Bhardwaj is concerned, the material on record attributes specific acts to him. LW-14 Pankaj Kumar Majhee has stated that on 05.12.2005, petitioner Bhardwaj came to the office of M/s Systronics and met petitioner M.M. Hegde in his chamber. According to

the said witness, documents relating to the tender were handed over to Bhardwaj on the instructions of Hegde and Bhardwaj thereafter prepared the performance certificates in the office cabin of Hegde. The witness has further stated that Bhardwaj handed over photocopies of the letterheads of certain companies to Ms. Sulochana for typing the certificates.

46. The statement of LW-22 Sulochana materially supplements the aforesaid version. She has stated that Bhardwaj was introduced to her by Hegde as the person who would be looking after the liaison work concerning the tender and that Bhardwaj instructed her to type certificates on photocopies of the letterheads of certain companies and dictated their contents and dates. She further stated that the dates mentioned therein were ante-dated and that, after typing the certificates, they were handed over to Bhardwaj. LW-17 Vijay Kumar Gupta has also stated that Bhardwaj got him to make a false signature on a certificate relating to Chinar Pharmaceuticals.

47. These statements, if taken at face value, do not merely indicate the presence of Bhardwaj in the office of M/s Systronics or his general role as a liaison agent. They attribute specific conduct to him in relation to the very documents which were subsequently relied upon in the tender process. The allegation is that he procured the blank photocopies of the purported letterheads, dictated the contents and dates of the certificates and got the employees of M/s Systronics to prepare or sign the same. Whether these witnesses will withstand cross-examination and whether their testimony will ultimately be sufficient to establish the guilt of Bhardwaj are matters which can only be determined at trial. At the present stage, however, their statements constitute material giving rise to a prima

facie case of his involvement in the alleged transaction.

48. The material against petitioner M.M. Hegde also cannot be viewed in isolation. LW-13 Navin Kumar has stated that Hegde, who was the Branch Manager of the Delhi office of M/s Systronics during the relevant period, informed the staff that the company would be participating in the tender and directed Pankaj Kumar Majhee to collect the tender documents and complete the necessary documentation. The same witness has further stated that Bhardwaj approached Hegde in connection with the liaison and consultancy work concerning the tender.

49. More significantly, LW-14 has stated that the certificates prepared on 05.12.2005 were handed over to Hegde and that Hegde signed the eight copies of the performance certificates on the following morning, i.e. 06.12.2005, before the documents were submitted to HSCC. Thus, the material relied upon by the prosecution places Hegde in a position of active participation in the process by which the alleged certificates were prepared and thereafter put forward in the tender proceedings.

50. The fact that the handwriting expert did not give a conclusive opinion regarding the signatures attributed to Hegde does not, at this stage, completely displace the statement of LW-14 identifying Hegde as the person who signed the certificates. The expert opinion is one piece of material and its evidentiary value, as well as the effect of its inconclusiveness, will have to be assessed by the Trial Court after the witnesses and the expert material are tested in accordance with law. At the stage presently under consideration, the Court is not required to determine conclusively whether Hegde was or was not the person who signed the documents.

51. The absence of the original performance certificates and the failure of the forensic examination to conclusively establish the identity of the person who typed or prepared every certificate also cannot, by themselves, justify quashing of the proceedings. The prosecution case, as reflected from the material collected during investigation, is not dependent solely upon scientific identification of the person who physically prepared each document. It is based, inter alia, upon the statements of persons who allegedly witnessed the preparation of the certificates and the participation attributed to the petitioners in getting the documents prepared, signed and submitted. Whether the prosecution will ultimately be able to establish these allegations through admissible evidence is a matter for trial.

52. The contention that *M/s Systronics* was the lowest bidder and that the six Flame Photometers were subsequently supplied without any complaint regarding their quality or functioning also does not, at this stage, demolish the prosecution case. The allegation is not that the equipment supplied was necessarily defective. The allegation is that false performance certificates were used to represent that the bidder satisfied the stipulated past-performance requirement and thereby enabled M/s Systronics to participate in and obtain the tender. The subsequent satisfactory supply of the equipment is therefore a distinct issue from the alleged deception practised at the stage of the tender process.

53. Likewise, the submission that the original performance certificates were not required to be submitted does not, by itself, answer the allegation of use of false documents. The distinction between the form in which a document was required to be submitted and the genuineness of the

document so submitted is material. If the material on record is accepted at face value, the allegation is that certificates purporting to have been issued by the respective purchasers were submitted despite those entities having stated that they had not issued such certificates. The fact that photocopies were submitted instead of originals does not, by itself, make the question of their genuineness immaterial.

54. The statements of the witnesses whose statements were recorded under Section 161 Cr.P.C. cannot, of course, be treated as substantive evidence of guilt at the stage of trial. However, at the stage of determining whether there is sufficient ground to proceed, the statements forming part of the investigation record can be taken into consideration for assessing whether the prosecution case discloses a prima facie case. The fact that LW-14, LW-17 and LW-22 subsequently declined to make statements under Section 164 Cr.P.C. may affect the evidentiary value and credibility of their testimony at trial, but such subsequent conduct does not, by itself, obliterate the material collected during investigation for the limited purpose of deciding whether the proceedings should continue.

55. The material further indicates that the alleged certificates were not documents wholly extraneous to the tender process. The statements of the members of the Tender Scrutiny Committee and the concerned officials indicate that information concerning past supplies and satisfactory performance formed part of the eligibility requirements. The learned Trial Court has also relied upon the statement of LW-16 to the effect that non-compliance with the relevant condition could have resulted in disqualification of the bidder. Thus, there is material to indicate that the alleged false certificates were connected with an eligibility requirement

and were not merely collateral or irrelevant documents.

56. As regards the offence under Section 420 IPC, the prosecution allegation is that the false performance certificates were presented in order to represent that M/s Systronics fulfilled the prescribed eligibility requirement, thereby inducing HSCC to consider its bid and ultimately award the tender. The fact that M/s Systronics was subsequently found to be the lowest bidder or that the equipment was ultimately supplied does not, at the stage of charge, conclusively negate the allegation of deception. The precise question whether the alleged representation in fact induced the decision of HSCC, and whether the requisite dishonest or fraudulent intention existed on the part of the petitioners, are matters which require appreciation of evidence at trial.

57. Similarly, insofar as Section 471 IPC is concerned, the relevant question at this stage is whether there is material indicating that the petitioners were involved in the use of the alleged forged documents as genuine, with the requisite knowledge or reason to believe that they were forged. The material discussed hereinabove, particularly the statements attributing to Bhardwaj the preparation and procurement of the certificates and to Hegde the signing of the certificates immediately before their submission to HSCC, provides sufficient basis at this stage to examine their alleged participation in the use of the documents as part of the same transaction. The ultimate question regarding their knowledge and the precise role played by each petitioner is a matter to be determined upon evidence.

58. The allegations against the petitioners also disclose a sufficiently connected sequence of events for the purpose of considering the allegation

of criminal conspiracy under Section 120-B IPC. The prosecution material, taken at face value, indicates that Hegde was the Branch Manager of M/s Systronics, introduced Bhardwaj for handling the tender-related work, facilitated access to the tender documents and allegedly signed the certificates, while Bhardwaj allegedly undertook the preparation of the certificates and got the same typed and signed through the employees of M/s Systronics. The certificates were thereafter submitted in connection with the tender. At this stage, the Court is not required to establish the conspiracy by direct evidence or determine the final truth of these allegations. The question is whether the circumstances emerging from the material raise a grave suspicion of concerted action. In the opinion of this Court, they do.

59. It is also relevant that the learned Trial Court has not mechanically accepted every allegation against the petitioners. After considering the material, it discharged both petitioners in respect of the offence under Section 468 IPC, holding that the material did not prima facie establish that they were the makers of the false documents in the manner required for that offence. The impugned order thus demonstrates that the learned Trial Court examined the material with reference to the individual offences and did not proceed merely on the basis of the allegations contained in the FIR.

60. On an overall consideration of the material, this Court is of the view that the present case cannot be characterised as one where the allegations, even if accepted in their entirety, fail to disclose the ingredients of the offences alleged. There is material attributing specific acts to both petitioners in relation to the preparation, signing and submission of the

disputed performance certificates. The absence of the original documents, the inconclusive forensic opinion, the filing of closure reports by the investigating agency and the subsequent refusal of certain witnesses to give statements under Section 164 Cr.P.C. are matters which may assume significance at the stage of appreciation of evidence. They do not, however, at this stage, render the prosecution case so inherently improbable or legally untenable as to warrant quashing of the proceedings.

61. This Court is, therefore, unable to find any illegality, perversity or abuse of the process of law in the impugned order dated 13.02.2023 warranting interference in exercise of jurisdiction under Section 482 Cr.P.C. The material on record, when considered at the threshold and without undertaking a detailed appreciation of its probative value, is sufficient to sustain the prima facie case against the petitioners for the offences under Sections 120-B, 420 and 471 IPC.

62. Accordingly, the challenge to the order on charge dated 13.02.2023 is without merit. The observations made herein are confined strictly to the question whether the material on record discloses sufficient ground for the criminal proceedings to continue and shall not be construed as an expression of opinion on the ultimate merits of the prosecution case.

63. This Court finds no occasion to interfere with the order of the learned Trial Court discharging the petitioners in respect of Section 468 IPC. The said finding has not been shown to suffer from any illegality warranting interference in the present proceedings.

CONCLUSION

64. Both petitions, ***CRL.M.C. 5490/2023*** and ***CRL.M.C. 8489/2023***,

along with the pending applications, are dismissed.

65. The trial court shall now proceed with the trial without delay. Nothing said in this judgment shall be taken as an opinion on the merits of the case, the observations being confined only to the question of whether a prima facie case exists for framing of charge.

66. A copy of this judgment be sent to the trial court for information and compliance.

MADHU JAIN
(JUDGE)

SEPTEMBER 22, 2026/RM