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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 21st January, 2026

CRL.M.A. 11201/2020

IN

+ O.M.P.(I) (COMM.) 170/2019

WALMARK HOLDINGS LIMITED

.....Petitioner

Through: None

versus

FORTIS HEALTHCARE LIMITED

.....Respondent

Through: Mr. H.S. Chandhoke and Mr. Saleem
Hasan, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The captioned application has been filed on behalf of the respondent/ Fortis Healthcare Limited (hereinafter '**Fortis**') under Section 340 of the Code of Criminal Procedure, 1973 (hereinafter '**CrPC**') read with Section 195 of CrPC and Sections 193, 196, 199, 200, 209 and 464 of the Indian Penal Code, 1860 (hereinafter '**IPC**') on the ground that the petitioner/ Walmark Holdings Limited (hereinafter '**Walmark**') and its officials have played serious fraud on this Court in an attempt to obtain favourable orders/ reliefs against Fortis.

2. The main petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter '**Act**') was filed on behalf Walmark against Fortis on



the basis of the draft Term Sheet dated 6th December 2017 (hereinafter '*Term Sheet*') and the Side Letters dated 6th December 2017 (hereinafter '*Side Letters*').

RELEVANT FACTS

3. A non-binding Term Sheet dated 26th September 2017 (hereinafter '*NBTS*') was executed between the parties. NBTS was valid for only 30 days and the same was not extended by the parties. Accordingly, NBTS stood lapsed.

4. Between 3rd December 2017 and 6th December 2017, the representatives of Fortis and Walmark prepared a draft Term Sheet. However, the said draft Term Sheet was never executed on behalf of Fortis.

5. Fortis, on 16th May 2018, received an email from counsel for Walmark containing an attachment of the Term Sheet, which did not bear the signature of Mr. Bhavdeep Singh, the erstwhile CEO of Fortis.

6. In a civil suit bearing no. CS-DJ-171 of 2018 titled ***Participation Finance & Holding (India) Pvt. Ltd. v. RHC Holding Pvt. Ltd. & Ors.*** pending before the District Court, Patiala House, New Delhi, Walmark moved an application for impleadment on 4th July 2018 along with a copy of the Term Sheet, which did not bear the signature of Mr. Bhavdeep Singh.

7. Walmark filed a complaint dated 3rd October 2018 with SEBI, NSE and BSE against Fortis, wherein the Term Sheet bearing the forged signature of Mr. Bhavdeep Singh was disclosed for the first time. However, in the said complaint, Walmark has admitted that Mr. Bhavdeep Singh was not present on the date when the Term Sheet was executed between the parties.

8. The petition under Section 9 of the Act was subsequently filed on behalf of Walmark seeking interim reliefs against Fortis, wherein reliance



has been placed upon the Term Sheet and the Side Letters.

PROCEEDINGS IN THE PETITION

9. Notice in the main petition under Section 9 of the Act was accepted on behalf of Fortis on 29th May 2019. On the same date, Fortis challenged the execution of the Term Sheet. Accordingly, Fortis was directed to file an affidavit stating its stand in this regard.

10. Walmark filed an application seeking withdrawal of the main petition under Section 9 of the Act and notice in the said application was issued on 22nd November 2019.

11. On 24th February 2020, the petition was dismissed as withdrawn. Liberty was granted to Fortis to file an application under Section 340 of CrPC for taking action against the officials of Walmark.

12. The captioned application has been filed under Section 340 of CrPC on behalf of the Fortis.

13. On 20th August 2020, notice in the captioned application was issued to the non-applicants/ officials of Walmark – (i) Dr. Wandschneider (ii) Mr. Georg Ehrmann (iii) Mr. David Baxi (iv) Mr. Rajesh Singh (hereinafter collectively referred to as '**non-applicants**').

14. On 13th October 2020, Mr. Priyal Anand, Advocate appeared on behalf of the non-applicants and sought time to file reply.

15. On 24th February 2021, fresh notice was issued to the non-applicants as it was asserted on behalf of Walmark that Mr. Priyal Anand is not authorized to represent the non-applicants.

16. A reply was filed on behalf of the non-applicants no.1 and 2 wherein they affirmed that the Term Sheet never came into force. Accordingly, it was directed that the captioned application shall not be proceeded against



the non-applicants no.1 and 2. The relevant extracts of the order dated 11th November 2021 are reproduced below:

“1.Reply has been filed on behalf of Mr Georg Ehrmann and Dr Ulrich Wandschneider, non-applicant nos.1 and 2. They affirmed that the term sheet-II dated 06.12.2017 never came into force. It is also asserted that they are not aware of any signatures made on behalf of Fortis Healthcare Limited. It is stated that the said non-applicants are lawyers based in Germany and were engaged to render assistance to Fortis Healthcare Limited. However, the signatures made on behalf of Fortis, which are claimed to be forged, were never made in their presence. In view of the above this Court does not consider it necessary to proceed further under Section 340 of the Cr.PC against the said non-applicants.”

17. As per the order dated 4th December 2023 passed by the Joint Registrar, the non-applicants no.3 and 4 were served on 3rd September 2023 and 5th September 2023, respectively. However, they failed to file any reply to the captioned application.

18. Arguments on behalf of Fortis were heard in the captioned application on 21st November 2025 and 8th January 2026.

SUBMISSIONS MADE ON BEHALF OF FORTIS

19. Counsel appearing on behalf of Fortis submits that the fact that the Term Sheet relied upon by Walmark in the Section 9 petition bears forged signature of Mr. Bhavdeep Singh, the erstwhile CEO of Fortis, is evident from the following facts:

- a. Each page of the Term Sheet carries an italicized notation, *i.e.*, ‘*Project Health Draft Term Sheet*’ dated ‘*December 6, 2017*’ (*Document P-17 filed with the main petition*).
- b. The Side Letters have allegedly been signed by Mr. Shivinder Mohan Singh (the erstwhile Promoter and Vice-Chairman of Fortis). However, Fortis never authorized him to execute any such document



on its behalf (*Document P-17 filed with the main petition*).

c. In the petition under Section 9 of the Act, Walmark has admitted that Mr. Bhavdeep Singh is the authorized representative of Fortis to execute the Term Sheet and the Side Letters. Therefore, Mr. Shivinder Mohan Singh was admittedly not authorized to execute the Side Letters (*paragraph 39(ii) of the petition*).

d. One of the Side Letters alleged to have been signed on behalf of Fortis does not even bear the date of execution and only mentions ‘__th day of December 2017)’ (*Document P-17 filed with the main petition*).

e. In the petition under Section 9 of the Act, it has been admitted that the Term Sheet, which is dated 6th December 2017, was not signed by Mr. Bhavdeep Singh till 29th December 2017 (*paragraph 42 of the main petition*).

20. The affidavits dated 24th July 2019 of Mr. Prabhat Kumar, the authorized representative of Fortis, and 30th October 2019 of Mr. Bhavdeep Singh have also been filed in the petition under Section 9 of the Act affirming that the Term Sheet was never signed by Mr. Bhavdeep Singh.

21. Walmark and its officials, despite being fully aware that the Term Sheet and Side Letters were not signed on behalf of Fortis, has filed the petition under Section 9 of the Act against Fortis making false assertions and allegations on the basis of forged and fabricated Term Sheet and Side Letters. The petition under Section 9 of the Act has also been supported by a falsely sworn affidavit of the non-applicant no.4.

22. The non-applicant no.3, Mr. David Buxi, has been involved in filing of the petition under Section 9 of the Act and the same is evident from the



communications between the representatives of the parties (*Documents P-2, P-6 to P-13 and P-15 of the main petition*).

23. Even subsequent to moving of the present application, Walmark and its officials have obtained orders from a Sole Arbitrator relying upon the forged Term Sheet.

24. Reliance is placed on the judgment of the Supreme Court in ***James Kunjwal v. State of Uttarakhand***, 2024 SCC OnLine SC 1943.

ANALYSIS AND FINDINGS

25. I have heard counsel for Fortis and perused the material on record.

26. The Supreme Court, in ***James Kunjwal*** (supra), encapsulated the essential factors which are *sine qua non* for an application under Section 193 of the IPC. The relevant extracts from ***James Kunjwal*** (supra) are set out below:

“15. The three essential factors which can be said to be sine qua non for the application of Section 193 IPC as held in Bhima Razu Prasad v. State Rep. by Deputy Supdt. of Police, CBI/SPE/ACU-II [(2021) 19 SCC 25] are:—

- (1) False statement made on oath or in affidavits;*
- (2) That such statements be made in a judicial proceeding; or*
- (3) Such statement be made before an authority that has been expressly deemed to be a ‘Court’.*

16. What we may conclude from a perusal of the above-noticed judicial pronouncements is that:—

- (i) The Court should be of the prima facie opinion that there exists sufficient and reasonable ground to initiate proceedings against the person who has allegedly made a false statement(s);*
- (ii) Such proceedings should be initiated when doing the same is “expedient in the interests of justice to punish the delinquent” and not merely because of inaccuracy in statements that may be innocent/immaterial;*
- (iii) There should be “deliberate falsehood on a matter of substance”;*
- (iv) The Court should be satisfied that there is a reasonable foundation for the charge, with distinct evidence and not mere suspicion;*



(v) Proceedings should be initiated in exceptional circumstances, for instance, when a party has perjured themselves to beneficial orders from the Court.”

27. In the present case, it is evident from the documents placed on record that the Term Sheet bearing the signature of Mr. Bhavdeep Singh was not in existence at least till filing of the application for impleadment in CS-DJ-171 of 2018 titled ***Participation Finance & Holding (India) Pvt. Ltd. v. RHC Holding Pvt. Ltd. & Ors.*** pending before the District Court, Patiala House, New Delhi on 4th July 2018. In fact, there have been sufficient admissions on behalf of Walmark and its officials that the Term Sheet was not executed by Mr. Bhavdeep Singh (*reference may be made to paragraph 42 of the petition, paragraph III(h) of the captioned application and Document 6 filed with the caption application*).

28. In particular, it is pertinent to note that the non-applicants no.1 and 2, in their reply to the captioned application, have admitted that the Term Sheet was not signed by the plaintiff to the best of their knowledge. The relevant extract from the aforesaid reply is set out below:

*“6. During this visit to India the answering Non – Applicants negotiated a term sheet dated 06.12.2021 (Term Sheet) with the lawyers of the Fortis group, the Singh brothers, representatives of Walmark. **However, to the knowledge of the answering Non – Applicants the Term Sheet was never signed by M/s Fortis Healthcare Limited. For this reason, the negotiations never culminated into any business deal or contractual commitment whatsoever because the Term Sheet never entered into force.**”*

[emphasis supplied]

29. Despite the aforesaid, the petition under Section 9 of the Act was filed on behalf of Walmark seeking interim relief against Fortis including a security of Rs. 490 crores.



30. The dishonesty and *mala fide* of the non-applicants no.3 and 4 is also apparent from the fact that despite service, the non-applicants no.3 and 4 have failed to file a reply to the present application or appear before this Court to put forth their case.

31. To be noted, *vide* a separate judgment in a connected suit being CS(COMM) 12/2023, it has been held that the Term Sheet was not executed by Mr. Bhavdeep Singh on behalf of Fortis and the same has been declared to be *non-est* and void. Accordingly, the said suit was decreed in favour of Fortis under Order XIII-A of the Code of Civil Procedure, 1908.

32. The Supreme Court, in ***Pritish v. State of Maharashtra***, (2002) 1 SCC 253, held that the purpose of a preliminary inquiry under Section 340 of CrPC was not to find whether a person is guilty or not, but only to decide whether it was expedient in the interest of justice to inquire into the offence. The relevant observations of the Supreme Court in ***Pritish*** (supra) are set out below:

“9. Reading of the sub-section makes it clear that the hub of this provision is formation of an opinion by the court (before which proceedings were to be held) that it is expedient in the interest of justice that an inquiry should be made into an offence which appears to have been committed. In order to form such opinion the court is empowered to hold a preliminary inquiry. It is not peremptory that such preliminary inquiry should be held. Even without such preliminary inquiry the court can form such an opinion when it appears to the court that an offence has been committed in relation to a proceeding in that court. It is important to notice that even when the court forms such an opinion it is not mandatory that the court should make a complaint. This sub-section has conferred a power on the court to do so. It does not mean that the court should, as a matter of course, make a complaint. But once the court decides to do so, then the court should make a finding to the effect that on the fact situation it is expedient in the interest of justice that the offence should further be probed into. If the court finds it necessary to conduct a preliminary inquiry to reach such a finding it is always open to the court to do so, though absence of any such



preliminary inquiry would not vitiate a finding reached by the court regarding its opinion. It should again be remembered that the preliminary inquiry contemplated in the sub-section is not for finding whether any particular person is guilty or not. Far from that, the purpose of preliminary inquiry, even if the court opts to conduct it, is only to decide whether it is expedient in the interest of justice to inquire into the offence which appears to have been committed.

12. ...Thus, the person against whom the complaint is made has a legal right to be heard whether he should be tried for the offence or not, but such a legal right is envisaged only when the Magistrate calls the accused to appear before him. The person concerned has then the right to participate in the pre-trial inquiry envisaged in Section 239 of the Code. It is open to him to satisfy the Magistrate that the allegations against him are groundless and that he is entitled to be discharged.”

[emphasis supplied]

33. In light of the aforesaid decision, it is clear that Section 340 of CrPC does not mandate a preliminary inquiry and an opportunity of hearing to the would-be-accused before a complaint is made by a Court.

34. In view of the discussion above, I am of the *prima facie* view that a fit case has been made out on behalf of Fortis for invoking the jurisdiction of this Court under Section 340 of CrPC (Section 379 of the Bharatiya Nagarik Suraksha Sanhita, 2023) in respect of the conduct of the non-applicants no.3 and 4.

35. The non-applicants no.3 and 4 could not have been unmindful of the consequences of making statements and/ or falsely swearing affidavit before this Court, which *prima facie* appear to be false to their knowledge.

36. Accordingly, the worthy Registrar General is directed to take action in this regard and lodge a complaint with the concerned Judicial Magistrate within four (4) weeks. Let the entire documents relating to the petition under Section 9 of the Act be transmitted to the concerned Judicial Magistrate by



the worthy Registrar General for action to be taken in accordance with law.

37. The application stands disposed of with the aforesaid directions.

AMIT BANSAL, J

JANUARY 21, 2026

Vivek/-