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\$~1 (Appellate side)

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

% *Date of Decision: 16.09.2026*

CNR No. DLHC010771312023

+ **CM(M) 1573/2023 & CM APPL. 30269/2024**

VIPSIE HOSPITALITYS PVT LTD

.....Petitioner

Through: Mr. M. Sufian Siddiqui, Mr. Rakesh B., Mr. Niyazudin and Mr. Mazhar Ahmed, Advocates

versus

WALIANET

.....Respondent

Through: Mr. Hrishikesh Baruah, Sr. Adv. with Mr. Gaurav Vig, Mr. Shubham Agarwal, Mr. Pratham Pandey, Adv.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (ORAL)

C.M. APPL. 30269/2024

1. This is an application under Section 151 of the Code of Civil Procedure, 1908 ['CPC'] filed by the Petitioner. The captioned application records a peculiar prayer, i.e., seeking a direction from this Court to refer the application dated 18.03.2023 *filed* by the Petitioner under Section 340 of the Code of Criminal Procedure, 1973. ['Cr.P.C.'] in OMP(COMM) 24/2023 to be decided by the concerned Court having competent jurisdiction to adjudicate the said application dated 18.03.2023.

1.1. The reason this Court terms the prayer as peculiar is that the Petitioner



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wants this Court to determine the appropriate forum in which the Petitioner can file and maintain the Section 340 Cr.P.C. application, even though there is no order of the concerned Court having jurisdiction over OMP(COMM) 24/2023 declining to hear the said Section 340 Cr.P.C. application.

2. The admitted facts of the case are as follows: -

2.1. Respondent herein, filed a petition, OMP(I)(COMM) 7/2019, under Section 9 of the Arbitration and Conciliation Act, 1996 ['Act of 1996'] whereby it relied upon the documents/letters dated 18.12.2018 and 15.01.2019, to seek the interim reliefs. The concerned Court relying upon the letter dated 15.01.2019 passed an ad-interim order dated 12.02.2019 whereby the Petitioner was restrained from creating any third-party interest in respect of the property bearing No. M-25, M Block Market, GK – I, New Delhi ['subject premises'].

2.2. Petitioner herein, entered appearance in OMP(I)(COMM) 7/2019 and raised a specific objection that the letter dated 18.12.2018 and the letter dated 15.01.2019, which was relied upon by the concerned Court in its order dated 12.02.2019, are forged and fabricated. Petitioner herein filed an application dated 23.02.2019 under Section 340 Cr.P.C. for initiating action against the Respondent for filing and relying upon the aforesaid two documents/letters dated 18.12.2018 and 15.01.2019.

2.3. Separately, the High Court vide order dated 14.10.2019 allowed the Section 11 petition, filed by the Respondent herein, and referred the parties to



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arbitration¹.

2.4. In view of the reference to arbitration, the concerned Court hearing OMP(I)(COMM) 7/2019 *vide* order dated 15.11.2019 disposed of the said petition, while granting liberty to the arbitral tribunal to modify or vacate the ad-interim order dated 12.02.2019.

2.5. With respect to the Section 340 Cr.P.C. application dated 23.02.2019, the concerned Court opined that unless a finding on the authenticity on these documents/letters dated 18.12.2012 and 15.01.2019 is returned by the arbitral tribunal, the proceedings under Section 340 Cr.P.C. cannot proceed. The concerned Court did not deem it appropriate to undertake a trial on the genuineness of the said documents/letters in the OMP(I)(COMM) 7/2019. It accordingly disposed of the said application while specifically reserving the issue of authenticity of the two documents/ letters to be decided by the arbitral tribunal.

2.6. Petitioner challenged the aforesaid order dated 15.11.2019 in Crl. A.247/2020 before the High Court, seeking relief *qua* the dismissal of the application under Section 340 Cr. P.C. The said appeal was disposed of *vide* order dated 10.06.2020 upholding the order dated 15.11.2019 by observing that the issue of the authenticity of the documents/letters dated 18.12.2018 and 15.01.2019 has to be determined by the arbitral tribunal and the allegations of the Petitioner regarding the forgery of the said documents/letters would have to be assessed at trial.

¹ As recorded, at paragraph 13 of the Order dated 15.11.2019



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2.7. The order dated 15.11.2019 passed in OMP(I)(COMM) 7/2019 and order dated 10.06.2020 passed by the High Court in Crl. A 247/2020 confirmed that the issue of, whether proceedings ought to be initiated against the Respondent under Section 340 Cr.P.C. for relying upon documents/letters dated 18.12.2018 and 15.01.2019, was *deferred* to await the final decision on the issue of authenticity of the two documents/letters in the arbitration proceedings. The said Section 340 Cr.P.C. application dated 23.02.2019 was not dismissed on merits.

2.8. The arbitral tribunal passed the final award dated 18.06.2022 and returned a finding that the authenticity and genuineness of both documents i.e., two letters dated 18.12.2018 and 15.01.2019 is highly doubtful and suspect. It concluded that by these documents/letters, the Petitioner never consented to handover possession of the subject premises, to the Respondent. However, the arbitral tribunal granted monetary reliefs in favour of the Respondent and against the Petitioner.

2.9. Petitioner herein challenged the award dated 18.06.2022 in W.P.(C) 2578/2023. The said petition was disposed of *vide* order dated 01.03.2023 wherein the High Court directed the Petitioner herein to challenge the award by filing a petition under Section 34 of the Act of 1996. With respect to the findings of the arbitral tribunal vis-à-vis the forgery and suspect nature of the two documents/letters dated 18.12.2018 and 15.01.2019, this Court held that the said issue would also be considered by the concerned Court hearing the Section 34 petition under Act of 1996. Moreover, the High Court also

² At paragraph nos. 50, 51, 52, 61 and 63 of the Award dated 18.06.2022



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observed that the Petitioner has the liberty to file the Section 340 Cr.P.C. application, if such a remedy is available to it on the basis of the findings of the arbitral tribunal *qua* the suspect nature of the said two documents/letters.

2.10. Petitioner, thereafter, filed a Section 34 petition under Act of 1996 being OMP (COMM) 24/2023 challenging the arbitral award dated 18.06.2022 to the extent that it granted monetary reliefs in favour of the Respondent. The said petition was however dismissed as barred by limitation *vide* order dated 08.07.2023.

In addition, the Petitioner had, along with the Section 34 petition under Act of 1996, simultaneously filed an application under Section 340 Cr.P.C. dated 18.03.2023 for initiating appropriate legal proceedings against the partner and authorized representative of the Respondent for filing of the forged document/letters dated 18.12.2018 and 15.01.2019 in OMP(I)(COMM) 7/2019 and relying upon the said documents/letters as to be genuine, while obtaining an ex-parte relief *vide* order dated 12.02.2019.

2.11. The concerned Court while dismissing OMP (COMM) 24/2023 on the ground of limitation *vide* order dated 08.07.2023, however failed to decide the separate application filed by the Petitioner herein under Section 340 Cr.P.C. dated 18.03.2023. Though both the parties concede that arguments were heard on the said Section 340 Cr.P.C. application as well by the said Court, though no final judgment was delivered on the said Section 340 Cr.P.C application.

3. Petitioner being aggrieved by the non-adjudication of the application dated 18.03.2023 filed under Section 340 Cr.P.C. in OMP (COMM) 24/2023, filed the captioned C.M.(M) 1573/2023 before this Court, seeking the following relief: -



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“a. Direct the successor Court of Ld. Shri Vipin Kumar Rai, ADJ- 06, District-South East; Saket Courts, New Delhi to initiate apposite legal proceedings against Shri Hemant Walia/ Partner of the respondent herein including but not limited to Section 340 Cr.P.C for committing the brazen and proven acts of perjury and securing the interim relief in his favour predicated on forged and fabricated documents used as genuine in it’s Section 9 Petition viz. OMP(I)(COMM) No.7/19, titled ‘Walianet vs Vipsie Hospitality’s Pvt. Ltd.’; and/or alternatively.”

4. The captioned C.M.(M) 1573/2023 was disposed of *vide* order dated 25.09.2023 with a direction to the concerned Trial Court hearing OMP (COMM) 24/2023, where Section 340 Cr.P.C. application dated 18.03.2023 was filed, to hear and adjudicate the said application in accordance with law.
5. It is submitted that in pursuance to the directions issued by this Court *vide* order dated 25.09.2023, the application under Section 340 Cr.P.C. was listed before the concerned Court, where OMP(COMM) 24/2023 was filed. On 08.11.2023, Petitioner made a submission before the Trial Court that the said Court has no jurisdiction to try and entertain the said application under Section 340 Cr. P.C. It was contended that the application is not maintainable as no fraud has been committed by the Respondent before the concerned Court in OMP(COMM) 24/2023. It is submitted by the learned counsel for the Petitioner that since the two forged documents/letters dated 18.12.2018 and 15.01.2019 were filed in the petition OMP(I)(COMM) 7/2019, possibly the Section 340 Cr.P.C. application should be heard by the successor Court which would have the jurisdiction on the said petition i.e., OMP(I)(COMM) 7/2019.
6. This Court finds no merit in the submission of the Petitioner and is at loss to express its exasperation at the manner in which the Petitioner has dealt with the matter. The issue being raised by way of this application already



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stands decided by this Court vide order dated 25.09.2023, wherein this Court directed that the Section 340 Cr.P.C. application shall be decided by the Court hearing the petition OMP(COMM) 24/2023.

7. Mr. Hrishikesh Baruah, learned senior counsel appearing on behalf of the Respondent states that OMP(I)(COMM) 7/2019 was a petition filed by the Respondent under Section 9 of the Act of 1996 for interim reliefs and OMP(COMM) 24/2023 is a petition filed by the Petitioner under Section 34 of the Act of 1996.

7.1 He fairly submits that in view of Section 42 read with Section 2(e)(i) of the Act of 1996, the concerned Court hearing OMP(COMM) 24/2023 is the jurisdictional Court and to that extent it is the successor Court which heard the petition OMP(I)(COMM) 7/2019.

7.2 He therefore submits that, the concerned Court before which OMP(COMM) 24/2023 was filed has the jurisdiction to hear and entertain the Section 340 Cr.P.C. application filed by the Petitioner, as regards the allegations of the forged documents/letters dated 18.12.2018 and 15.01.2019.

7.3 He states however, on merits of the relief prayed for in the Section 340 Cr.P.C. application, the Respondent has an objection as to whether any proceedings can be initiated against authorized representative of the Respondent in view of the law laid down by Supreme Court in **Iqbal Singh Marwah & Anr v. Meenakshi Marwah & Anr**³.

³ (2005) 4 SCC 370



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7.4 He submits therefore, the Respondent has no objection if the application under Section 340 Cr.P.C. is heard and decided by the concerned Court before which OMP(COMM) 24/2023 was filed, however, the Respondent reserves its right to raise objections on merits of the maintainability of the relief prayed for in the said application.

8. In reply, learned counsel for the Petitioner states that in view of the aforesaid submission of the Respondent, the Petitioner may be permitted to pursue its application before the Court in which OMP(COMM) 24/2023 was filed and the application under Section 340 Cr.P.C. filed on 18.03.2023.

9. In view of the orders dated 15.11.2019 passed in OMP(I)(COMM) 7/2019 and order dated 10.06.2020 passed by this Court in CrI. A. 247/2020 categorically opining that the assertion of the Petitioner that the two documents/letters dated 18.12.2018 and 15.01.2019 filed by the Respondent, are forged and would have to await the findings in the trial of the arbitration proceedings, had the effect of postponing the adjudication of the Section 340 Cr.P.C. application filed by the Petitioner initially on 23.02.2019 in OMP(I)(COMM) 7/2019.

Now, the arbitral tribunal in its award dated 18.06.2022 held that the said documents/letters are forged and suspect. In the considered opinion of this Court, the liberty granted to the Petitioner to seek initiation of appropriate proceedings for perjury against the authorized representative of the Respondent, post conclusion of the arbitration proceedings, have been correctly initiated, by the Petitioner, by filing Section 340 Cr.P.C. application before the Court hearing Section 34 petition under the Act of 1996 i.e., in OMP(COMM) 24/2023.



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10. The concerned Court hearing the petition OMP (COMM) 24/2023, is therefore directed to hear and adjudicate the said application under Section 340 Cr. P.C. dated 18.03.2023, on merits within three (3) months from today.

11. It is clarified that the submission of the Respondent as regards to the maintainability of the reliefs prayed for in the said application in view of the judgment of **Iqbal Singh Marwah** (supra) or any other ground is kept open. However, the issue of jurisdiction of the Court to hear and decide the said application under Section 340 Cr.P.C. is hereby decided. Thus, no dispute on the forum will be raised by either parties.

12. The parties are directed to appear before the Trial Court on **30.09.2026**. No notice for hearing is required to be issued by the Court to the parties, as the date has already been fixed in the present order, and parties have knowledge of the said date.

13. Accordingly, the captioned application stands disposed of.

MANMEET PRITAM SINGH ARORA, J
SEPTEMBER 16, 2026/mt/IB