***IN THE COURT OF SH. ASHISH RASTOGI***
**ADDITIONAL SESSIONS JUDGE- 05**
**EAST, KARKARDOOMA COURTS, DELHI**

**CR No.211/2025**

**Dr. Shuchin Bajaj**
S/o Shri. Chandra Prakash Bajaj
R/o 175, Avtar Enclave, Paschim Vihar,
West Delhi, Delhi-110063

…. Revisionist

Vs.

**1. Meshar Ali**
S/o Shri Shaukat Ali
R/o C-99, Kabutar Market,
Welcome, Seelampur, Delhi

**2. State of NCT of Delhi**

…. Respondent

**AND**

**CR No.213/2025**

**Dr. Naveen Nischal**
S/o Shri Khem Chand
R/o 8-B, Tower-3, The Hibiscus,
Sector-50, Nirvan Country,
Gurgaon, Haryana-122018

…. Revisionist

Vs.

**1. Meshar Ali**
S/o Shri Shaukat Ali
R/o C-99, Kabutar Market,
Welcome, Seelampur, Delhi

**2. State of NCT of Delhi**

…. Respondents

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| **Date of Institution of CR No.211/2025** | **: 08.08.2025** |
| **Date of Institution of CR No.213/2025** | **: 12.08.2025** |
| **Arguments heard** | **: 30.05.2026** |
| **Date of order** | **: 03.07.2026** |

***ORDER***

1. Vide this common order, I shall dispose off two criminal revision petitions bearing CR No.211/2025 titled as Dr.

Suchin Bajaj vs Meshar Ali & Ar. and CR No.213/2025 titled as Dr. Naveen Nischal vs Mehsar Ali & Anr. as both these revision petitions are inter connected and are challenging the same impugned order.

2. Criminal revision No.213/2025 was initially marked to the court of Ld. ASJ-02/Special Judge (NDPS)/East/KKD Courts, Delhi and later on it was transferred to the undersigned court vide order dated 23.01.2026 by the Ld. Principal District & Sessions Judge/East/KKD Courts, Delhi. File received in the undersigned court on 10.02.2026.

3. By way of these revision petitions, both the revisionists have challenged the impugned order dated 04.03.2025 passed by Ld. ACJM (East), KKD Courts, Delhi in CT Case No.49921/2016 titled as *Meshar Ali vs Taneja Hospital & Anr.* vide which the revisionists Dr. Suchin Bajaj and Dr. Naveen Nischal have been summoned along with other accused persons for the offence punishable U/s 304/120B IPC.

4. During the course of arguments in CR No.211/2025, Ld. Counsel for Revisionists and Respondent jointly submitted that their arguments in the instant Revision petition may also be read as part and parcel of the connected revision petition bearing CR No.213/2025 titled *"Naveen Nischal v. Meshar Ali"* since both the revision petitions arise out of the common order and in both the revision petitions, the role of the revisionists is also similar that they were purportedly the directors of Altius healthcare and only one additional argument is with respect to revisionist Dr.

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Naveen Nischal that he was not even the director at the relevant point of time.

5. It is submitted on behalf of the revisionists that the revisionists have nothing to do with the alleged offence they were merely a director (as an entrepreneur) of Altius Healthcare Private Ltd which took over M/s Taneja Hospital. It is further submitted that it is trite law that in a medical negligence or even offences under IPC, there is requirement of *mens rea* which in this case, is completely missing as the revisionists have nothing to do with the act in question. It is further submitted that revisionist have no connection to the alleged surgery in question. Moreover, it is settled law which needs no elaboration that principle of vicarious liability cannot be extended in such a case. It is further submitted that in case of medical negligence, an inquiry has to be conducted by a team of doctors which was conducted in this case and the report of Delhi Medical Council is placed on record as Annexure-7 wherein it has been clearly mentioned that "*no medical negligence can be attributed on the part of the doctors of Taneja Hospital, in the treatment administered to the complainant's wife Smt. Allah Rakhi at Taneja Hospital*". Therefore, it is submitted that the impugned summoning order is bad in law and is without application of mind.

6. It is further submitted that this is a clear case of gross abuse of process of law because cognizance has been taken even against Dr. Naveen Nischal who was not even a director at the relevant point of time. Rather the revisionists i.e. Dr. Shuchin Bajaj and Naveen Nischal are purportedly

directors for Altius Healthcare Pvt. Ltd. Which is a conglomerate that owns M/s Taneja Hospital. It is further submitted that principle of vicarious liability is very strict concept and criminal liability cannot be fastened merely on the basis of conjecture and surmises. More glaring is the fact that the said directors were not even made an accused persons by the complainant and regarding one of the directors i.e. Dr. Naveen Nischal it is specifically submitted that he was not even a director at that point of time but no enquiry has been made regarding the said fact before taking cognizance. It is further submitted that no efforts were made by the Ld. Trial Court to find out as to who were the functional directors of M/s Taneja Hospital at that point of time. The same was necessary because the alleged incident is of 2011 and the cognizance have been taken in 2025. It is further submitted that it is not borne out by any pre-summoning evidence that the revisionists are responsible and not even their names have been taken by the respondent.

7. Ld. Counsel for respondent, on the other hand submitted that the order of the Ld. Trial Court is a reasoned order wherein cognizance of the offence is taken against the accused persons including the revisionists because of their overt act in the entire incident. It is further submitted that there was no medical history of the deceased Allah Rakhi who only came to M/s Taneja Hospital with one Nargis because the said Nargis had to get her stitches removed. It is further submitted that as per version of the complainant, the deceased was forcibly admitted and injected some

substance which resulted into loss of her life. It is further submitted that the judgement of ***Jacob Mathew v. State of Punjab*** is not applicable because it is not their case that it is medical negligence on the part of the M/s Taneja Hospital. Rather it is a case of pre-designed conspiracy which resulted into loss of life of deceased. The medical history has been shown from 1.30 pm on 10.05.2011. While the OPD documents shows that the said document related to OPD were made on 15.54 pm. As per another document of M/s Teneja Hosiptal vide which the deceased was referred to GTB Hospital, it shows that there is a clear overwriting wherein the word 'un' has been cut to make the word 'conscious' from "unconscious". In addition, no consent form of the deceased is available on record and neither it was shown to the Delhi Medical Council which conducted the inquiry. All these facts clearly show that it is a pre-designed conspiracy which resulted into loss of life of the deceased.

8. Ld. counsel for revisionists has also filed a common written submissions along with following case laws in support of their arguments:

   (i) Sunil Bharti Mittal vs CBI (2015) 4 SCC
   (ii) Maksud Saiyed vs State of Gujrat (2008) 5 SCC 668
   (iii) Ravindranath Bajpe vs Mangalore Special Economic Zone Ltd. & Ors (2022) 15 SCC 430
   (iv) State of Kerla vs P. Sugathan & Anr. (2000) 8 SCC 203
   (v) CBI vs K. Narayana Rao (2012) 9 SCC 512

9. I have heard the submissions of Ld. Counsel for the Revisionists and Ld. Counsel for the Complainants and Ld. Addl. PP at length and my observations are contained herein below.

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10. At the outset, the law regarding summoning and the implications of the same needs to be summarized here before proceeding further. The Hon'ble Supreme Court in ***Pepsi Foods Ltd.* v. *Judicial Magistrate* [(1998) 5 SCC 749: 1998 SCC (Cri) 1400]** this Court held as under: (SCC p. 760, para 28).

> *'28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.'*

11. Hence, it is clear that the Hon'ble Supreme Court has categorically held that before passing a summoning order which evidently sets in motion the criminal law against the Accused persons, an application of mind and reasoning based on the said application of mind is sine qua non. The order must reflect the said application of mind and cannot be cryptic.

12. Now, in the present case, the summoning order has been passed against the Revisionists as they were the Directors

of the company Altius Healthcare which, at the time of the alleged incident, was the holding company of Taneja Hospitals. It appears that the summoning order has been passed against them only because of their capacity as Directors of the Company as no further role has been attributed to them in the entire summoning order. In other words, the principle of vicarious liability for the acts of the Company has been applied to the Revisionists. Hence, before moving further, it is very necessary to discuss the law occupying the field which has been elaborately discussed and settled in the case of ***Sunil Bharti Mittal v. CBI*****, (2015) 4 SCC 609 : (2015) 2 SCC (Cri) 687 : (2015) 191 Comp Cas 177 : 2015 SCC OnLine SC 18 at page 638**

(***iii***) ***Circumstances when Director/person in charge of the affairs of the company can also be prosecuted, when the company is an accused person***

> **42.** No doubt, a corporate entity is an artificial person which acts through its officers, Directors, Managing Director, Chairman, etc. If such a company commits an offence involving mens rea, it would normally be the intent and action of that individual who would act on behalf of the company. It would be more so, when the criminal act is that of conspiracy. However, at the same time, it is the cardinal principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides so.
>
> **43.** Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Second situation in which he can be implicated is in those cases where the statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision.
>
> **44.** When the company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence of any statutory provision to this effect. One such

example is Section 141 of the Negotiable Instruments Act, 1881. In *Aneeta Hada* [*Aneeta Hada* v. *Godfather Travels & Tours (P) Ltd.*, (2012) 5 SCC 661 : (2012) 3 SCC (Civ) 350 : (2012) 3 SCC (Cri) 241] , the Court noted that if a group of persons that guide the business of the company have the criminal intent, that would be imputed to the body corporate and it is in this backdrop, Section 141 of the Negotiable Instruments Act has to be understood. Such a position is, therefore, because of statutory intendment making it a deeming fiction. Here also, the principle of "alter ego", was applied only in one direction, namely, where a group of persons that guide the business had criminal intent, that is to be imputed to the body corporate and not the vice versa. Otherwise, there has to be a specific act attributed to the Director or any other person allegedly in control and management of the company, to the effect that such a person was responsible for the acts committed by or on behalf of the company.

**45.** This very principle is elaborated in various other judgments. We have already taken note of *Maharashtra State Electricity Distribution Co. Ltd.* [*Maharashtra State Electricity Distribution Co. Ltd.* v. *Datar Switchgear Ltd.*, (2010) 10 SCC 479 : (2011) 1 SCC (Cri) 68] and *S.K. Alagh* [*S.K. Alagh* v. *State of U.P.*, (2008) 5 SCC 662 : (2008) 2 SCC (Cri) 686] . A few other judgments reiterating this principle are the following:

**45.1.** *Jethsur Surangbhai* v. *State of Gujarat* [1984 Supp SCC 207 : 1984 SCC (Cri) 474] : (SCC pp. 210-11, para 9)

> *"9. … With due respect what the High Court seems to have missed is that in a case like this where there was serious defalcation of the properties of the Sangh, unless the prosecution proved that there was a close cohesion and collusion between all the accused which formed the subject-matter of a conspiracy, it would be difficult to prove the dual charges particularly against the appellant (A-1). The charge of conspiracy having failed, the most material and integral part of the prosecution story against the appellant disappears. The only ground on the basis of which the High Court has convicted him is that as he was the Chairman of the Managing Committee, he must be held to be vicariously liable for any order given or misappropriation committed by the other accused. The High Court, however, has not referred to the concept of vicarious liability but the findings of the High Court seem to indicate that this was the central idea in the*

*mind of the High Court for convicting the appellant. In a criminal case of such a serious nature mens rea cannot be excluded and once the charge of conspiracy failed the onus lay on the prosecution to prove affirmatively that the appellant was directly and personally connected with acts or omissions pertaining to Items 2, 3 and 4. It is conceded by Mr Phadke that no such direct evidence is forthcoming and he tried to argue that as the appellant was Chairman of the Sangh and used to sign papers and approve various tenders, even as a matter of routine he should have acted with care and caution and his negligence would be a positive proof of his intention to commit the offence. We are however unable to agree with this somewhat broad statement of the law. In the absence of a charge of conspiracy the mere fact that the appellant happened to be the Chairman of the Committee would not make him criminally liable in a vicarious sense for Items 2 to 4. There is no evidence either direct or circumstantial to show that apart from approving the purchase of fertilisers he knew that the firms from which the fertilisers were purchased did not exist. Similar is the case with the other two items. Indeed, if the Chairman was to be made liable then all members of the Committee viz. Tahsildar and other nominated members, would be equally liable because all of them participated in the deliberations of the meetings of the Committee, a conclusion which has not even been suggested by the prosecution. As Chairman of the Sangh the appellant had to deal with a large variety of matters and it would not be humanly possible for him to analyse and go into the details of every small matter in order to find out whether there has been any criminal breach of trust. In fact, the hero of the entire show seems to be A-3 who had so stage-managed the drama as to shield his guilt and bring the appellant in the forefront. But that by itself would not be conclusive evidence against the appellant. There is nothing to show that A-3 had either directly or indirectly informed the appellant regarding the illegal purchase of fertilisers or the missing of the five oil engines which came to light much later during the course of the audit. Far from proving the intention the prosecution has failed to prove that the appellant had any knowledge of defalcation of Items 2 to 4. In fact, so far as Item 3 is concerned, even Mr Phadke conceded that there is no direct evidence to connect the appellant." (emphasis supplied)*

**45.2.** *Sham Sunder* v. *State of Haryana* [(1989) 4 SCC 630 : 1989 SCC (Cri) 783] : (SCC p. 632, para 9)

*"9. But we are concerned with a criminal liability under penal provision and not a civil liability. The penal provision must be strictly construed in the first place. Secondly, there is no vicarious liability in criminal law unless the statute takes that also within its fold. Section 10 does not provide for such liability. It does not make all the partners liable for the offence whether they do business or not." (emphasis supplied)*

**45.3.** *Hira Lal Hari Lal Bhagwati* v. *CBI* [(2003) 5 SCC 257 : 2003 SCC (Cri) 1121] : (SCC p. 277, para 30)

*"30. In our view, under the penal law, there is no concept of vicarious liability unless the said statute covers the same within its ambit. In the instant case, the said law which prevails in the field i.e. the Customs Act, 1962 the appellants have been thereinunder wholly discharged and the GCS granted immunity from prosecution."*

*(emphasis supplied)*

**45.4.** *Maksud Saiyed* v. *State of Gujarat* [(2008) 5 SCC 668 : (2008) 2 SCC (Cri) 692] : (SCC p. 674, para 13)

*"13. Where a jurisdiction is exercised on a complaint petition filed in terms of Section 156(3) or Section 200 of the Code of Criminal Procedure, the Magistrate is required to apply his mind. The Penal Code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company when the accused is the company. The learned Magistrate failed to pose unto himself the correct question viz. as to whether the complaint petition, even if given face value and taken to be correct in its entirety, would lead to the conclusion that the respondents herein were personally liable for any offence. The Bank is a body corporate. Vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. Statutes indisputably must contain provision fixing such vicarious liabilities. Even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability."*

*(emphasis supplied)*

**45.5.** *R. Kalyani* v. *Janak C. Mehta* [(2009) 1 SCC 516 : (2009) 1 SCC (Cri) 567] : (SCC p. 527, para 32)

*"32. Allegations contained in the FIR are for commission of offences under a general statute. A vicarious liability can be fastened only by reason of a provision of a statute and not otherwise. For the said purpose, a legal fiction has to be created. Even under a special statute when the vicarious criminal liability is fastened on a person on the premise that he was in charge of the affairs of the company and responsible to it, all the ingredients laid down under the statute must be fulfilled. A legal fiction must be confined to the object and purport for which it has been created."*

**45.6.** *Sharon Michael* v. *State of T.N.* [(2009) 3 SCC 375 : (2009) 2 SCC (Cri) 103] : (SCC p. 383, para 16)

*"16. The first information report contains details of the terms of contract entered into by and between the parties as also the mode and manner in which they were implemented. Allegations have been made against the appellants in relation to execution of the contract. No case of criminal misconduct on their part has been made out before the formation of the contract. There is nothing to show that the appellants herein who hold different positions in the appellant Company made any representation in their personal capacities and, thus, they cannot be made vicariously liable only because they are employees of the Company."*

**45.7.** *Keki Hormusji Gharda* v. *Mehervan Rustom Irani* [(2009) 6 SCC 475 : (2009) 2 SCC (Cri) 1113] : (SCC pp. 480-81, paras 16-19)

*"16. We have noticed hereinbefore that despite of the said road being under construction, the first respondent went to the police station thrice. He, therefore, was not obstructed from going to the police station. In fact, a firm action had been taken by the authorities. The workers were asked not to do any work on the road. We, therefore, fail to appreciate that how, in a situation of this nature, the Managing Director and the Directors of the Company as also the Architect can be said to have committed an offence under Section 341 IPC.*

*17. The Penal Code, 1860 save and except in some matters does not contemplate any vicarious liability on the part of a person. Commission of an offence by raising a legal fiction or by creating a vicarious liability in terms of the provisions of a statute must be expressly stated. The Managing Director or the Directors of the Company, thus, cannot be said to have committed an offence only because they are holders of offices. The*

> *learned Additional Chief Metropolitan Magistrate, therefore, in our opinion, was not correct in issuing summons without taking into consideration this aspect of the matter. The Managing Director and the Directors of the Company should not have been summoned only because some allegations were made against the Company.*

13. Hence, the law in the nutshell as laid down by the Hon'ble Supreme Court is that vicarious liability viz a viz criminal acts is a strict concept and can be attracted in only two situations. Firstly, when the statute itself provides so. In other words when a specific legal fiction is created which provides for such liability. For eg. Section 141 of Negotiable Instruments Act or the provisions in Factories Act which provide for the liability of the "occupier" of the factory in certain circumstances. Secondly, when an individual is to be made an accused on behalf of the company for the acts of the Company there have to be specific allegations against him and cogent evidence for his involvement in the alleged act. Moreover, in both the scenarios, the Company also has to be made an accused.

14. Applying the above to the facts and circumstances of the case, it is observed at the outset that while the summoning order has been passed against the Revisionists by virtue of them being directors of the Company, the holding company i.e. Altius Healthcare has not been made an accused. Moreover, in the summoning order, no discussion whatsoever has been provided as to their role in the alleged act which warrants their summoning or as to how their involvement can be prima facie established. The Ld. Trial Court has merely mentioned that the statement of the Complainant and other witnesses, the evidences placed on

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record, the inquiry report and order of DMC, prima facie show that the Accused persons have committed offence punishable under Section 304/120-B IPC i.e. culpable homicide not amounting to murder and criminal conspiracy. The same includes the name of Revisionists at Sl. No. 4 and 5.

15. In this connection, it is observed that firstly the relevant provision applicable here does not provide for vicarious liability. In such circumstances, it was imperative for the Ld. Trial Court to provide reasoning so as to demonstrate a clear application of mind as to how the Revisionists were involved in the alleged act so as to warrant their summoning and what was the exact role played by them in the entire alleged act. Even if the charge made out against them is of conspiracy, then also the said conspiracy cannot be unilaterally assumed and summoning cannot be done in a mechanical manner as has been done by the Ld. Trial Court. The perusal of Pre-summoning evidence reveals that not even a single allegation has been made against the revisionists and the entire set of allegations are directed against the doctors at Taneja Hospital. The Revisionists were not even made an accused by the Complainant in the Complainant under Section 200 Cr.P.C. The Ld. Counsel for the Respondent during the arguments also very fairly admitted that there are no specific allegations against the Revisionists. In this connection, the observations of the Hon'ble Supreme ***Sunil Bharti Mittal v. CBI,*** **(2015) 4 SCC 609** again become relevant wherein it was observed:

> ***46.*** *It is stated at the cost of repetition that in the present case, while issuing summons against the appellants, the*

*Special Magistrate has taken shelter under a so-called legal principle, which has turned out to be incorrect in law. He has not recorded his satisfaction by mentioning the role played by the appellants which would bring them within criminal net. In this behalf, it would be apt to note the following observations of this Court in GHCL Employees Stock Option Trust v. India Infoline Ltd. [(2013) 4 SCC 505 : (2013) 2 SCC (Cri) 414] : (SCC p. 516, paras 19 & 21)*

> *"19. In the order issuing summons, the learned Magistrate has not recorded his satisfaction about the prima facie case as against Respondents 2 to 7 and the role played by them in the capacity of Managing Director, Company Secretary or Directors which is sine qua non for initiating criminal action against them. [Thermax Ltd. v. K.M. Johny [(2011) 13 SCC 412 : (2012) 2 SCC (Cri) 650] followed.]*

16. Based on the above, it is the considered opinion of this Court that the order of the Ld. Trial Court vide which the Revisionists have been summoned for offences under Section 304/120-B suffers from clear non application of mind and is manifestly perverse. Hence, the same deserves to be set aside. Accordingly, the Revision stands allowed.

17. Signed copy of this order be placed along with both criminal revision petitions. TCR be sent back along with copy of this order.

18. Copy of order be also given *dasti* to both the parties.

19. Revision files be consigned to the Record Room after due compliance.

***Announced in the open Court***
***on 03.07.2026.***

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**(Ashish Rastogi)**
**Additional Sessions Judge-05**
**East/Karkardooma Courts/Delhi**