

Basant Kumar Rawat Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Feb-08-2013

Appellant : Basant Kumar Rawat

Respondent : The State of Madhya Pradesh

Judgement :

HIGH COURT OF MADHYA PRADESH PRINCIPAL SEAT AT JABALPUR
CRIMINAL REVISION NO.1823/2012 Basant Kumar Rawat Versus State of
Madhya Pradesh For the applicant : Shri Vishal Bhatnagar, Advocate For the
respondent/ State : Shri Punit Shroti, P.L.

ORDER

(08 .02.2013) Per U. C. Maheshwari J.

1. The applicant accused has preferred this revision being aggrieved by the order dated 31.5.2012, (Ann. A-1) passed by the Vth Additional Sessions Judge in Sessions Trial No.558/2011 whereby charges of Section 120-B, 467 and 468 of IPC were framed against him.

2. The facts giving rise to this revision in short are that on dated 24.11.2009 at Police Station, Gandhi Nagar, Bhopal an First Information Report as Crime No.429/2009 for the offence of Sections 420, 467 and 468 of IPC was registered against one Ku. Akansha Bajpai, D/o Gayacharan Bajpai. As per averments of such FIR, the complaisant M.S. Patel, A.S.I. Police posted at Gandhi Nagar

Bhopal received a letter of Rajeev Gandhi Proudhyogiki Vishwavidyalya from the office of SHO, Police Gandhi Nagar for holding the enquiry regarding the mark sheet of said Ku. Akansha Bajpai submitted by her in the Counselling of P.E.P.T. 2009. In the course of such enquiry by the said Police Officer, he interrogated Shri Pankaj Jain, Counselling Incharge, so also Shri B.K. Sethi, the Secretary of R.G.V.V. and found such mark sheet of Ku. Akansha was false and fabricated, on which aforesaid FIR was registered and the matter was investigated. In the course of aforesaid enquiry and investigation it was revealed that Ku. Akanksha was failed in Class 12th in three subjects while such mark sheet submitted in the University for the aforesaid counselling was showing her as passed out student. In further investigation of the case, it was also found that original mark sheet was signed by the present applicant of this revision as Principal of Maharishi Vidya Mandir, Rewa and in such premises, it has been prima facie established that the present applicant has involved himself in criminal conspiracy of the main accused Ku. Akansha in fabricating and forging such mark sheet and in such manner the applicant has facilitated to the aforesaid co-accused Akansha to apply and appear in the alleged competitive counselling of the aforesaid examination, while she being failed in three subjects in Class 12th was not qualified and entitled to appear in such counselling. In such premises, alongwith Ku. Akansha Bajpai, the applicant was also charge sheeted for the offence of Sections 420, 467 and 471 and 120-B of IPC. After committing the case to the Sessions Court, on evaluation of the charge sheet, the charges of the offence of Sections 467, 468 and 120-B of IPC against the applicant while of Sections 467, 468, 471, 420/511 and 120-B of IPC against co-accused Ku. Akansha were framed, on which they abjured the guilt and thereafter the applicant has come to this court with this revision.

3. The applicant's counsel after taking me through the papers of the charge sheet alongwith the averments of revision petition, the copies of the recorded depositions of the prosecution witnesses, (those are four in numbers), argued that the alleged mark sheet was neither found in possession of the present applicant nor was seized from his possession and there is no chain of evidence to show that the applicant was involved in any such conspiracy with the impugned mark sheet was fabricated with forgery. In the lack of such material ingredients of Sections 467, 468 and 120-B of IPC in the charge sheet, the charges framed against the

applicant is not sustainable. In continuation he said that mere on account of signature of the applicant over the mark sheet or the report of the hand writing expert in that connection was not sufficient to frame the impugned charges. He also argued that even on taking into consideration the papers of the charge sheet as accepted in its entirety, even then the ingredients of any of the aforesaid offences are not made out against the applicant and prayed for quashment of the aforesaid charge by admitting and allowing this revision. He also placed his reliance on decisions of the Apex Court in the matter of Paramhansh Yadav & Sadanand Tripathi Vs. State of Bihar and others, reported in 1987 AIR SC 95. and of Punjab National Bank and others Vs. Surendra Prasad Sinha, reported in 1992 AIR SC 1815. so also of Yogesh @ Sachin Jagdish Joshi Vs. State of Maharashtra decided by the Apex Court on 24th April 2008 in Appeal (Cri.) 744/2008.

4. On the other hand with the assistance of the case diary, learned PL has justified the impugned charges framed against the applicant saying that same being in consonance with the charge sheet is not required any interference at this stage with further submission that sufficient prima facie ingredients of the alleged offence have been established against the applicant for framing such charges and in such premises the trial court has not committed any error either in passing the impugned order or in framing the charges and prayed for dismissal of this revision. In support of his submission he also placed his reliance on a decision of the Apex Court in the matter of Soma Chakravarty Vs. State through CBI reported in (2007) 5, SCC, 403.

5. Having heard the counsel at length, keeping in view the arguments advanced by them, I have carefully gone through the case diary as well as papers of the charge sheet available on record, so also the case laws cited by the parties.

6. I am of the considered view that at the stage of framing the charge against the applicant whatsoever papers or the documents placed on behalf of the applicant either before the trial court or before this Court with this revision which are not the part of charge sheet, in the light of decision of the Apex Court in the matter of "State of Orissa v. Debendra Nath Padhi" reported in AIR 200. SC 35. could not be taken into consideration to examine and quashing the sustainability of the

impugned order or the charges framed against the applicant, as such the court is bound to consider the question of framing the charge strictly only on the basis of papers, evidence and documents submitted alongwith the Police report (the charge sheet) filed under Section 173 of Cr.P.C.

7. On evaluation of the papers of the charge sheet, if the ingredients of the alleged offences are prima facie established, then there is no option with the court except to frame the charges of such offence against the accused. The court has not to consider at the stage of framing the charge whether trial shall be culminated in conviction or not. My such approach is based on a decision of the Apex Court in the matter of Soma Chakravarty Vs. State through CBI reported in (2007) 5, SCC, 403.

8. It is apparent from the papers of the charge sheet that such Akansha had failed in three subjects in the alleged examination of 12 th Class, inspite of that the disputed mark sheet to show that she had passed out in such examination was given to her with the signature of the applicant from the institution of the applicant. So prima facie, it could be assumed at this stage that at the time of signing of such mark sheet, it was known to the applicant that such mark sheet has been fabricated and forged with intention of some ulterior purpose to commit the fraud by submitting the same in some other institution for taking admission of participating in the competitive examination or counselling. In the case at hand, it is undisputed fact that such mark sheet was filed by Ku. Akansha in the above mentioned University to appear in the competitive counselling but on having doubt, the to the management of University, the impugned complaint was made by the institution to some Police Station and subsequent to it, in accordance with the procedure, the enquiry was made and on establishing the offence, the crime was registered and in further investigation the involvement of the applicant in the alleged conspiracy in fabricating the aforesaid mark sheet, which could be deemed and termed to be a valuable security on account of his signature as Principal of the Institution from where the same was issued, was found, on which he was also implicated as accused in the matter. So in such premises, there are prima facie evidence against the applicant for framing the alleged charges. So in such premises, mere on account of not seizure of such mark sheet or the relevant

documents from the possession of the applicant the impugned charged could neither be quashed nor the applicant could be discharged.

9. I have carefully gone through the above mentioned case laws cited on behalf of the applicant. The case of Paramhansh Yadav & Sadanand Tripathi Vs. State of Bihar and others, (supra) was decided on the background that a clear link in respect of the alleged conspiracy was not established between the accused and in the lack of the same, such case was decided but such situation is not in the case at hand. In the case at hand, it is prima facie apparent fact that the alleged fabricated mark sheet was signed by the applicant as Principal of the Institution and thereby he has involved himself in the alleged conspiracy with the student, Ku. Akansha. So this citation is not helping to the applicant.

10. So far the other case law in the matter of Punjab National Bank and others Vs. Surendra Prasad Sinha, (supra) is concerned, the same was decided taking into factual matrix of some private complaint, so also considering the situation that prima facie evidence for the alleged offence was not available in such case for framing the charges. But in the present case in investigation carried out by the Police, prima facie evidence with respect of the alleged offence has been collected against the applicant and placed with the charge sheet and on that basis the impugned charges have been framed. So this citation is also not helping to the applicant.

11. So far the case law of the Apex Court in the matter of Yogesh @ Sachin Jagdish Joshi Vs. State of Maharashtra (supra) is concerned, the same was decided taking into consideration the legal position that where there is no sufficient ground for proceeding against the accused, then the charge could not be framed and trial could not be proceeded against him. In addition, it is also observed in such judgment that where on evaluation of the charge sheet, if two views are equally possible and the judge is satisfied that the evidence produced before him gives rise to suspicion only as distinguished from grave suspicion, then he will be fully within his right to discharge the accused. Simultaneously, it was also stated in such judgment that at the time of framing the charge, the Magistrate has not to see as to whether the trial will end in conviction or not. The broad test to be applied is

whether the materials on record, if unrebutted, makes a conviction reasonably possible, then the charge should be framed. Keeping in view the observation of the Apex Court of this case, on examining the case at hand, it is apparent that in the present case there are prima facie ingredients in the evidence showing that inspite of knowing that the impugned mark sheet of Ku. Akansha is false and fabricated and prepared under some conspiracy, the same was signed by the applicant. So in such premises, at this stage, it could not be inferred that there are two views and any of such views creates suspicion with respect of the alleged offence against the applicant whether the same was committed by him or not. Hence this citation is also not helping to the applicant in the present case.

12. In view of the aforesaid discussion, I have not found any perversity, infirmity, illegality or anything against the propriety of law in the order impugned framing the aforesaid charges against the applicant. Consequently this revision being devoid of any merits is hereby dismissed. (U. C. Maheshwari) Judge HIGH COURT OF MADHYA PRADESH PRINCIPAL SEAT AT JABALPUR CRIMINAL REVISION NO.1823/2012 Basant Kumar Rawat Versus State of Madhya Pradesh For the applicant : Shri Vishal Bhatnagar, Advocate For the respondent/ State : Shri Punit Shrotri, P.L.

ORDER

Post for 08/02/2013 (U.C. Maheshwari) JUDGE 07 02/2013

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