

**ZinnatunnessA.**

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**Court :** Kolkata

**Decided On :** Jul-19-2011

**Judge :** Kanchan Chakraborty, J.

**Acts :** Indian Penal Code. - Sections 468, 420; Code of Criminal Procedure. - 482

**Appeal No. :** C.R.R.383 of 2006.

**Appellant :** ZinnatunnessA.

**Advocate for Def. :** Mr. Sekhar Barman. Adv

**Advocate for Pet/Ap. :** Md. Taimur Hossain; Ms. Sibani Bhagat, Advs

**Judgement :**

1. Mr. Hossain, learned Counsel appearing on behalf of the petitioner is present. Mr. Barman, learned Counsel appearing for the State is also present. The matter has been mentioned but it appears on record that it is pending since 2001 and requires to be disposed of without further delay. Since, both the learned Counsels are present in Court, this Court proposes to dispose of the matter itself without fixing any further date and without observing any formalities.

2. This application has been filed for quashing of the proceeding in English Bazar Police Station Case No.373 of 2001 dated 2.11.2001 under Sections 468/420 of the Indian Penal Code. The petitioner Zinnatunnessa got her name registered with the local employment exchange after completion of Madhyamik standard in the

year 1985 under the West Bengal Madrasah Education Board and Junior Basic Training Examination in 1990 from the Junior Basic Training Institute, Malda. The local employment exchange sponsored her name being eligible candidate for recruitment of primary teacher under the Malda District Primary School Council in 1996 after necessary scrutiny of the candidature and all testimonials, she was called on for interview, written and oral, and her name found place in the list of successful candidates. She was given appointment as a primary teacher by the Council and posted at Satangapara Primary School at Malda. She served there for about six years and in the first week of November, 2001, she came to know that the Chairman of the Council lodged a complaint in the English Bazar Police Station alleging that she secured the job by using fake testimonials and thereby cheated the Council.

3. The F.I.R. was registered as English Bazar Police Station Case No.373 of 2001 dated 2.11.2001 under Sections 468/420 of the I. P. C. which is pending in the Court of the learned Sub Divisional Judicial Magistrate, Malda. Subsequently, the Council rectified their action and allowed her to appear in the interview for recruitment of Assistant Primary Teachers in the year 2005 and she used the same testimonials and got a job of Assistant Teacher at Hossaindbad Primary School under Kaliachak Circle at Malda. That being the fact, the proceeding initially started against her being baseless should stand quashed.

4. Heard Mr. Hossain, learned Counsel appearing on behalf of the petitioner. Heard Mr. Barman, learned Counsel appearing for the opposite party/State.

5. It is not clear at least from the annexures filed that the petitioner used the same documents for the second time in getting the job in the year 2005 which she used for the first time in the year 2001.

6. This apart, whether the documents/testimonials she used in the year 2005 to secure a job of a primary school teacher, are subject to verification. The case of 2001 was investigated into and on conclusion of investigation, a charge sheet was filed under Section 468/420 of the I. P. C. as the Investigating Officer found that the petitioner/accused got the job of a primary school teacher by using forged and fake mark sheet/testimonials. The averments of the F.I.R. and the charge sheet

together constitute, prima facie, a cognizable offence allegedly committed by the petitioner. Whether those documents are subsequently used and found to be genuine or not will be a plea or alibi available to the petitioner/accused in the case and the same is subject to strict proof thereof. Therefore, the proposition of Mr. Hossain, learned Counsel for the petitioner that getting an appointment again in the year 2005 by using the same documents/testimonials and as a consequence, the allegations set forth in the F.I.R. and the result of investigation thereof should be quashed --- cannot be accepted.

7. Accordingly, I reject the prayer. The criminal revisional application stands disposed of.

8. The learned Chief Judicial Magistrate, Malda in whose Court the matter is pending, is directed to take up the case in its own file and conclude the trial as early as possible preferably within six months from the date of communication of the order after giving opportunities to the parties to adduce evidence on their side.

9. Let a copy of this order be communicated to the learned Chief Judicial Magistrate, Malda for information and taking necessary action.

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