
(1988) 01 PAT CK 0009
In the Patna High Court
Case No : Cr.W.J.C. No. 185 of 1987

(Dr.) Dinraj Shandilay and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 19-01-1988

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 173
University Grants Commission Act, 1956 — Section 22, 23, 24, 3

Citation : (1988) 36 BLJR 528 : (1988) PLJR 613

Hon'ble Judges : S.B. Sinha, J;N.P. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

N.P. Singh, J.—This application has been filed under Articles 226 and 227 of the Constitution for quashing a First Information Report lodged against the petitioners and restraining further investigation because accepting the allegations made in the First Information Report in question no cognizable offence is disclosed against the petitioners.

2. According to the petitioners, a decision was taken by the people of the locality to establish a Maithily University in the District of Darbhanga. Accordingly, "Maithily" University was registered under the Societies Registration Act, 1860. Petitioner No. 1 is the Pro-Chancellor and other petitioners are the Officers of the said University which has branches in different parts of the country ; the primary object being to educate through medium of Maithily and Sanskrit. It has also been claimed that the said University has been conferring the diplomas, degrees etc. of Madhyam, Visharad, Shastri, Acharya, Vidyalkar, Vidya Ratna, Vidya Varidhi, Vidhavachapati etc.

3. The First Information Report was lodged on 20th December, 1986, by the Inspector of Police, Criminal Investigation Department (C.I.D.), Bihar, Patna before the Officer-in-Charge, University Police Station, Darbhanga, alleging that

the petitioners were running an institution known as "Maithily University" without such institution being recognised or approved by the competent authority. It was further alleged that petitioner No. 1 claiming to be the Vice-Chancellor of the said University has been distributing graduate degrees in different subjects to persons throughout the country. It was stated that during preliminary enquiry it has transpired that this institution has no building and it is running in three or four rooms and has been awarding degrees of B.A., M.A., B. Com., M. Com., B. Sc. and M. Sc. without there being any authority for awarding any such degree. The said University is also awarding degrees of Doctor of Western Medicine (D.W.M.) and Doctor of Western Surgery (D.W.S.). It has been alleged that for awarding such degrees huge money is being received by the petitioners knowing that these degrees are not recognised degrees by any University or State Government. In the First Information Report, some details of the money collected and deposited by these petitioners in the Bank have also been mentioned.

4. According to the petitioners, even if the allegations made in the First Information Report are accepted on their face value, no cognizable offence is disclosed which could have been investigated by the police. It was pointed out that there is no bar in opening such institution and persons who are recipients of such degrees and diplomas are expected to know that those degrees and diplomas cannot be used for the purpose of appointment or entering into service.

5. "University" has been defined in Section 3(f) of the University Grants Commission Act, 1956 (hereinafter referred to as "the Act") as follows :

2 (f) "University" means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under this Act.

On a plain reading a University can be established or incorporated by or under a Central Act or State Act which may include any such institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under the Act. u/s 3 the Central Government may, on the advice of the Commission, declare, by notification in the Official Gazette, any institution for higher education, to be a University for the purpose of that Act. Section 22 says that the right of conferring or granting degree shall be exercised only by a University established or incorporated under a Central or State Act or an institution deemed to be a University u/s 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees. It further says that no person or authority shall confer or grant, or hold himself or itself out as entitled to confer or grant any degree. Section 23 provides that no institution, whether a corporate body or not, other than a University established or incorporated by or under a Central or State Act shall be entitled to have the word "University" associated with its name. Section 24 provides penalty for persons who contravene the provisions of Section 22 or

Section 23 aforesaid.

6. In view of the provisions aforesaid, the learned counsel for the petitioners had to admit that no one can establish a University without following the procedure mentioned above. But, according to the learned counsel, that will only amount to committing an offence u/s 24 of the Act which is a non-cognizable one and it cannot be investigated by Police. It is difficult to accept the contention raised on behalf of the petitioners that in the First Information Report the main charge levelled against the petitioners is that they have established a University without any authority in law. The real charge appears to be that they have been conferring degrees and diplomas not only of B.A., B.Sc. B. Com., M.A., M.Sc., M. Com. but also of Doctor of Western Medicine and Doctor of Western Surgery knowing full well that none of the degrees aforesaid have been recognised by any University or the State Government. The petitioners are also accepting money for awarding such degrees. With reference to the case diary the learned Government Advocate pointed out that some of the recipients of such degrees have stated during investigation that they paid huge amounts for such degrees. Some of them also disclosed the purposes of getting such degrees ; one being to give a new date of birth so that they can apply for appointment in Government service although they had become over age with reference to their dates of birth mentioned in their certificates and degrees granted by the Bihar School Examination Board and other Universities in the State of Bihar. In view of the aforesaid statements, it has to be held that a prima facie case of cheating which is a cognizable offence is disclosed in which the petitioners are alleged to be abettors. This needs deeper probe and investigation.

7. The power of this Court for quashing the investigation has been examined in several cases of the Privy Council and Supreme Court. Reference in this connection may be made to the well-known cases of AIR 1945 18 (Privy Council); R.P. Kapur Vs. The State of Punjab, ; State of West Bengal v S.N. Basak 1962 B.L.J.R. 891; S. N. Sharma v. Bipen Kumar 1971 B.L.J.R. 49 (S.C.); Jehan Singh Vs. Delhi Administration, and State of Bihar v. J.A.C. Saldanha 1980 B.L.J.R. 18 (S.C.), where it has been pointed out that this Court should be cautious and reluctant in interfering with the statutory right of the police to investigate a cognizable offence It has been pointed out that any investigation should be quashed only when this Court is satisfied that it is being conducted with an oblique and mala fide motive or that no offence is disclosed even accepting the allegations on their face value.

8. On behalf of the petitioners reliance was placed on the judgment of the Supreme Court in the case of State of West Bengal and Others Vs. Swapan Kumar Guha and Others, , In my view the judgment aforesaid is of no help to the petitioners, because, in the present case, as I have already pointed out, from the allegations made in the First Information Report and materials collected during investigation a prima facie cognizable offence is disclosed, i.e., these petitioners without any authority in law have been awarding and conferring degrees which

are not recognised by any University or State Government and on the basis of those degrees and diplomas the persons concerned are practising fraud before the different authorities in respect of their qualifications or dates of birth, knowing full well that the facts stated in those degrees and diplomas are incorrect and fraudulent.

9. Accordingly, this application is dismissed. However, I make it clear that any observation made above for the purpose of a finding whether in the First Information Report and during investigation a prima facie cognizable offence has been disclosed shall not prejudice the petitioners. The investigating officer after investigation shall form his own opinion and submit his report u/s 173 of the Code of Criminal Procedure which shall be considered by the learned Magistrate in accordance with law.

S.B. Sinha, J.

10. I agree.