
(2013) 09 MP CK 0299

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No's. 12311 of 2009, 1410 of 2010 and 11006 of 2011

Dr. Manoj Kumar Dubey

APPELLANT

Vs

Dr. Raghuraj Singh Chouhan and Another
 Dr. R.D.
Thakur Vs Dr. Raghuraj Singh Chouhan and Others
 Dr.
Raghuraj Singh Chouhan Vs Rakesh Kumar Pandey

RESPONDENT

Date of Decision : 20-09-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 467, 468, 471

Citation : (2013) 09 MP CK 0299

Hon'ble Judges : N.K. Gupta, J

Bench : Single Bench

Advocate : Prakash Upadhyay in M.Cr.C. No. 12311/2009, Mr. Rohit Sohgaure in M.Cr.C. No. 1410/2010, Mr. Dharmendra Soni in M.Cr.C. No. 11006/2011, for the Appellant; Dharmendra Soni, Advocate for Respondent No. 1. in M.Cr.C. No. 12311/2009 and 1410/2010, Shri Akshay Namdeo, Panel Lawyer for Respondent No. 2-State in M.Cr.C. No. 12311/2009, Shri Prakash Upadhyay, Advocate for Respondent No. 2 in M.Cr.C. No. 1410/2010, Shri Anil Khare and Shri Ajay Dubey, Advocate for Respondent in M.Cr.C. No. 11006/2011 and Advocate for Respondent No. 3 in M.Cr.C. No. 1410/2010, for the Respondent

Judgement

N.K. Gupta, J.—All the above mentioned three petitions are connected with the common order dated 23.9.2009 passed by the Chief Judicial Magistrate, Rewa in Criminal Case No. 3272/2009, and therefore the same are decided by the common order. The applicants of M.Cr.C. No. 12311/2009 and M.Cr.C. No. 1410/2010 have challenged the order dated 23.9.2009 passed in Criminal Case No. 3272/2009 by the Chief Judicial Magistrate, Rewa, whereby the cognizance is taken against these applicants for the offence punishable under Sections 467, 468 and 471 of IPC, whereas in M.Cr.C. No. 11006/2011 the applicant has challenged the order dated 10.8.2011 passed by the learned Additional Sessions Judge, Rewa in Criminal Revision No. 367/2009 whereby the criminal revision was accepted and the order dated 23.9.2009 passed by the CJM Rewa in Criminal

Case No. 3272/2009 was set aside in which the CJM Rewa took cognizance for the offence punishable under Sections 467, 468 and 471 of IPC against the respondent Rakesh Kumar Pandey.

2. The prosecution case, in short, is that the complainant/applicant of M.Cr.C. No. 11006/2011 has filed a criminal complaint before the CJM, Rewa that the respondent Rakesh Kumar Pandey has submitted a thesis to get a degree of MD Ayurved from the university, but it was found thereafter that he copied the thesis of someone else i.e. Shri Manmohan Gupta and he has not done any original work, therefore he forged the document of the thesis. Hence the complainant has moved a complaint for the offence punishable under Sections 467, 468 and 471 of IPC.

3. The learned Chief Judicial Magistrate, Rewa after considering the evidence adduced by the complainant registered the case against three accused persons namely Dr. Rakesh Kumar Pandey, Dr. Manoj Kumar Dubey and Dr. R.D. Thakur.

4. I have heard the learned counsel for the parties.

5. After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, it appears that there are more than 70 pages verbatimly copied by the respondent Rakesh Kumar Pandey when he submitted his thesis. It is true that the committee held by the university for enquiry on the complaint made by the complainant gave a negative report but it is found by them that the respondent Rakesh Kumar Pandey copied for 92 pages from the thesis of one Shri Manmohan Gupta, and therefore certainly this was not an original work of the respondent Rakesh Kumar Pandey prima-facie and the learned CJM Rewa has rightly registered a criminal complaint against the respondent Rakesh Kumar Pandey. The learned Additional Sessions Judge in the revision has discussed so many things away from the fact of the case. For example, it is mentioned that the respondent Rakesh Kumar Pandey referred some portion from the thesis of Shri Manmohan Gupta, whereas it is observed that he copied 92 pages of that thesis in word by word, and therefore it was not a matter of reference, but it is a matter of copying almost entire thesis, and therefore the order dated 10.8.2011 passed by the learned Additional Sessions Judge, Rewa appears to be erroneous, which cannot be maintained.

6. So far as the remaining applicants are concerned, it is pleaded that the applicant Dr. Manoj Kumar Dubey was one of the guide to Rakesh Kumar Pandey in his work, but it is nowhere established that Dr. Manoj Kumar Dubey had any knowledge about the thesis submitted by the previous candidate namely Shri Manmohan Gupta, and therefore it is possible that Dr. Manoj Kumar Dubey had no knowledge that the respondent Rakesh Kumar Pandey had copied his thesis from the thesis of Shri Manmohan Gupta. Hence, prima-facie it cannot be said that Dr. Manoj Kumar Dubey had participated in the crime of forgery. Under such circumstances, the petition filed by the applicant Dr. Manoj Kumar Dubey can be accepted.

7. However, it is pleaded that Dr. R.D. Thakur was guide to the respondent Rakesh Kumar Pandey as well as he was the guide of the previous candidate of Shri Manmohan Gupta, and therefore Dr. R.D. Thakur had knowledge that the thesis submitted by Rakesh Kumar Pandey was not an original work, but it was copied from the thesis of the previous candidate, and therefore he should have objected in submission of thesis which was not the original work, but it was a copy. Under such circumstances, prima facie, it cannot be said that Dr. R.D. Thakur did not participate in the alleged crime. Therefore, if the learned CJM Rewa has registered a case against Dr. R.D. Thakur, then no illegality or perversity is visible in that matter. Hence, the petition filed by the applicant Dr. R.D. Thakur cannot be accepted.

8. On the basis of the aforesaid discussion, the petition M.Cr.C. No. 11006/2011 filed by the applicant Dr. Raghuraj Singh Chouhan is hereby accepted. The impugned order dated 10.8.2011 passed by the learned Additional Sessions Judge, Rewa in Criminal Revision No. 367/2009 is hereby set aside, whereas the order dated 23.9.2009 passed by the learned CJM Rewa against the respondent Rakesh Kumar Pandey is hereby confirmed. The petition i.e. M.Cr.C. No. 12311/2009 filed by the applicant Dr. Manoj Kumar Dubey is hereby allowed. The order dated 23.9.2009 passed by the learned CJM Rewa in Criminal Case No. 3272/2009 is hereby set aside upto the extent of applicant Dr. Manoj Kumar Dubey. It is directed that his name be deleted from the list of accused persons, whereas the petition-M.Cr.C. No. 1410/2010 filed by the applicant Dr. R.D. Thakur is hereby dismissed.

9. A copy of this order be sent to both the Courts below for information and compliance. Since all the petitions are disposed off, therefore the interim stay granted by this Court is hereby vacated automatically. The learned CJM Rewa is directed to proceed with the case accordingly.