
(2007) 02 AHC CK 0247
In the Allahabad High Court
Case No : Criminal M.W.P. No. 15617 of 2006

Dr. Om Prakash Tripathi and Another	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 21-02-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 409, 420, 467, 468, 469

Citation : (2007) 2 ACR 2006

Hon'ble Judges : R.N. Misra, J; Amar Saran, J

Bench : Division Bench

Advocate : Arvind Kumar Shukla, for the Appellant; Akhilesh Chandra Mishra and A.G.A., for the Respondent

Judgement

Amar Saran and R. N. Misra, JJ.—This writ petition has been filed by the Petitioner Dr. Om Prakash Tripathi and Shiv Prasad for quashing the F.I.R. registered at police station Bhatpar Rani, district Deoria on 1.12.2006 at Crime No. 370 of 2006 under Sections 409, 467, 468, 469, 471 and 420, I.P.C. They have further prayed for directing the Investigating Officer not to arrest them in connection with the said F.I.R.

2. We have heard Shri Arvind Kumar Shukla, learned Counsel for the Petitioner and learned A.G.A. for the State. None appears for the Respondent No. 3.

3. A plain perusal of the F.I.R. shows that a prima facie cognizable offence is made out. The F.I.R. has been lodged by the Deputy Collector, Bhatpar Rani. The Petitioner No. 1 is the Principal and Petitioner No. 2 is the clerk of Madan Mohan Malviya Post Graduate College, Bhatpar Rani, Deoria. The allegations against them are about embezzlement of the Scholarship money. A number of students eligible for scholarship have given evidence to the Investigating Officer that they did not receive the cheques though the payment have been shown against their names. It is further alleged in the F.I.R. that a number of cheques were encashed by one person by making illegible signatures. It is further alleged that 1,706 cheques were issued, out of which the details of 371 cheques were not entered in

the relevant register and amount of Rs. 7,49,499 of those cheques was taken out by the Petitioners. Not only this, the bearer cheques were issued to facilitate the embezzlement of amount though the account payee cheques should have been issued by the Principal. Most of the cheques were encashed by some other person or persons in the name of the students in whose favour the cheques were issued. No record was found in the college to show that the scholarship was sanctioned to the persons concerned the Principal. The amount of 825 cheques, Rs. 14,34,350 was drawn by one person by making illegible signature. The another charge that the said amount of scholarship was transferred to some other head and was utilized for the purpose other than scholarship, which was not permissible under Rules. The prosecution suspects racket behind it. The Petitioners have filed the statement of account maintained by the Bank to show that all the cheques were encashed by the persons concerned. This is a matter for investigation whether the cheques were encashed by the persons concerned or by only one person by making illegible signature. In the writ petition the defence evidence cannot be scrutinized.

4. As we have discussed earlier, a number of students have given their statements that they did not receive the cheques though the money was drawn in their names. The learned Counsel for the Petitioners have argued that there is a dispute regarding management committee and one Ram Nagina Tiwari, who could not win the election of the Chairman of the management committee, colluded with Shri Kameshwar Upadhyay, Minister in the Uttar Pradesh, Government and managed this F.I.R. exercising the undue pressure on the Deputy Collector concerned.

5. We are not going to conduct the trial in the matter. For a moment, if it is believed that the F.I.R. has been lodged under the pressure of someone, even then it is to be seen by the Investigating Officer whether the offence alleged in the F.I.R. is made out and if the offence is made out, it is meaningless that on whose instance the F.I.R. has been lodged.

6. This is a serious matter and in such matters the interference of the Court in the investigation is unwarranted.

7. In view of above, the writ petition stands dismissed.