
(2010) 10 AHC CK 0311
In the Allahabad High Court
Case No : Criminal M.W.P. No. 18738 of 2010

Lal Bahadur

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 05-10-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173(2)
Penal Code, 1860 (IPC) — Section 420, 467, 468, 471

Citation : (2011) 1 ACR 898

Hon'ble Judges : Surendra Singh, J; Amar Saran, J

Bench : Division Bench

Judgement

Amar Saran and Surendra Singh, JJ.—Heard learned Counsel for the Petitioner and learned Additional Government Advocate.

2. This writ petition has been filed for quashing of an F.I.R. at Case Crime No. 283 of 2010, u/s 420/467/468/471. I.P.C., P.S. Madrak, district Aligarh, which was lodged by Respondent No. 3, Principal, District Education and Training Institute, Madrak/Member Secretary District Education Committee, Aligarh on 9.9.2010.

3. The allegations in the F.I.R. were that the Petitioner's mark sheets of High School/Poorva Madhyama and Intermediate/Uttar Madhyama for the special B.T.C. Training, 2008 were found to be forged. In this connection a letter was sent on 29.7.2010 to the Examining Body, i.e., the Sampurnanand University, Varanasi. The said University sent a letter dated 1.8.2010 mentioning that the Roll No. 35252 given by the Petitioner for the High School/Poorva Madhyama Examination related to one Mahendra Kumar Shukla and Roll No. 40990 of Intermediate/Uttar Madhyama was not allotted to any one. The Petitioner was given an opportunity by the informant by letter dated 10.8.2010 to present his case and file his written explanation. The Petitioner stated that the roll numbers given by him were correct. Another letter dated 16.8.2010 was received from the Sampurnanand University on 21.8.2010, which declared the mark sheets of the

Petitioner to be correct.

When the aforesaid letter of the Sampurnanand University was got verified on orders of the Chief Development Officer dated 28.8.2010, another letter was received from the Sampurnanand University on 30.8.2010, in which it was mentioned that even the letter of the University dated 16.8.2010 was forged.

4. Thus, there was a double forgery in this case. One at the stage of submitting forged mark sheets and secondly in sending or having a letter sent dated 16.8.2010 purportedly on behalf of the Sampurnanand University verifying the forged mark sheets, which on subsequent verification was found to be incorrect.

5. Learned Counsel for the Petitioner submitted that in the petitions filed by other similarly placed accused persons against whom there were similar allegations, this Court in Criminal Misc. Writ Petition Nos. 18202 of 2010 Umesh Chandra v. State of U.P. and Ors.; 18206 of 2010, Gangadhari v. State of U.P. and Ors.; 18203 of 2010. Kuldeep Kumar v. State of U.P. and Ors.; 18205 of 2010, Yogesh Kumar Verma v. State of U.P. and Ors. and 16437 of 2010, Subhash and Ors. v. State of U.P. and Ors. orders of interim bail have been passed pending consideration of the final bail prayer. Also in Criminal Misc. Writ Petition No. 25307 of 2009 preferred by Jugendra Singh and Ors. v. State of U.P. and Ors. notice was issued to the State and other parties and the arrest of the accused persons were stayed.

6. As the said orders did not make any detailed examination of the matter on merits, we are not bound by them.

7. It was also submitted by the learned Counsel for the Petitioner that against the order cancelling the appointment of the Petitioner as Assistant Teacher, the Petitioner has preferred a Civil Misc. Writ Petition No. 54375 of 2010 challenging the aforesaid order. In the said proceedings this Court has summoned the Registrar of the Sampurnanand University on 6.10.2010.

8. We are of the view that merely because some official of the Sampurnanand University may or may not have colluded with the Petitioner for issuing the said fraudulent aforesaid letter dated 16.8.2010 declaring the incorrect mark sheets to be true, it can provide no ground for giving any protection to the Petitioner, who being clearly the beneficiary would have a hand in the fraud.

9. The Full Bench of this Court in Ajit Singh alias Muraha v. State of U.P. and Ors. (56) 2006 ACC 433: 2006 (3) ACR 2842 (FB), reiterated the view taken by the earlier Full Bench in Satya Pal and Others Vs. State of U.P. and Others, after considering the various decisions of the Apex Court including State of Haryana and others Vs. Ch. Bhajan Lal and others, that there can be no interference with the investigation or order staying arrest unless cognizable offence is not ex-facie discernible from the allegations contained in the F.I.R. or there is any statutory restriction operating on the power of the Police to investigate a case.

10. From the perusal of the F.I.R., prima facie it cannot be said that no

cognizable offence is made out. Hence, no ground exists for quashing of the F.I.R. or staying the arrest of the Petitioner.

11. The writ petition is accordingly dismissed.

12. As we find mention in the writ petition that F.I.Rs. on similar allegations against 22 Applicants who have first submitted wrong marks sheets and then have got fictitious letters sent purportedly from the Sampurnanand University affirming the correctness of the marks sheets, regarding which further enquiry has revealed that the marks sheets as well as letters were fraudulent. Thus, this matter assumes the proportion of a scam. In some of these matters this Court has passed orders for interim bail" and in some cases orders may have been passed for staying the arrest of the Petitioner therein. We direct the Investigating Officer to try and complete the investigation in this matter within three months and submit a report u/s 173(2), Code of Criminal Procedure

13. In case other persons including the officials of the Sampurnanand University are also involved, it will be open to the Investigating Officer also to investigate the matter and to take action against them. The Investigating Officer shall submit his report about whether he has completed the investigation and the progress report thereof within four months to the Registry, which shall place the compliance report before the Bench concerned.

Office is directed to forward a copy of this order to the S.S.P., Aligarh for communication to the S.H.O., P.S. Madrak, district Aligarh within a week for compliance.