
(2009) 03 AHC CK 0018
In the Allahabad High Court
Case No : Criminal M. A. No. 6548 of 2002

Lal Sahan Chaudhary

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 20-03-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 419, 420, 467, 468, 471

Citation : (2009) 3 ACR 2781

Hon'ble Judges : Ravindra Singh, J

Bench : Single Bench

Advocate : R.C. Dwivedi, R.P. Dwivedi, K.K. Dwivedi, Ravindra Sharma and Satish Mandhyan, for the Appellant; R.S. Parihar and B.D. Mishra and A.G.A, for the Respondent

Judgement

Ravindra Singh , J.—Heard Sri K. K. Dwivedi, learned Counsel for the applicant, learned A.G.A. for the State of U. P. and Sri B. D. Misra and Sri R. S. Parihar, learned Counsel for O. P. No. 2.

2. This application has been filed by the applicant with a prayer to quash the proceedings of the Criminal Case No. 532 of 2001 under Sections 467, 468, 471, 419 and 420, I.P.C. pending in the court of learned II Ird Additional Civil Judge (Jr. Div.), Deoria.

3. The facts in brief of this case are that the F.I.R. of this case has been lodged by Dr. Hari Shanker Yadav on 10.8.1999 at 1.30 p.m. against the applicant and other co-accused persons alleging therein that the appointment of the applicant and other co-accused Agre Nath Tiwari and Surya Deo Yadav has been made on the basis of the forged papers by the Manager of the college namely Vashistha Narayan and the Principal. The applicant was appointed as assistant teacher, in inquiry it was found that his B. Ed. certificate was forged. The matter was investigated by the Investigating Officer who submitted the charge-sheet dated 24.10.2000 against the applicant on which the learned Magistrate has taken the cognizance and summoned the applicant to face the trial for the offence

punishable under Sections 467, 468, 471, 419 and 420, I.P.C.

4. It is contended by learned Counsel for the applicant that on account of the management dispute the F.I.R. of this case has been lodged. The applicant was appointed as a assistant teacher in L. T. Grade on a vacant post. The order dated 14.12.1989 was challenged by way of filing the Civil Misc. Writ Petition No. Nil of 1990 in which the operation of the order dated 14.12.1989 was stayed. It was further directed to pay the salary of the applicant. On the basis of the order dated 11.1.1990 passed by this Court, District Inspector of School (hereinafter referred as D.I.O.S.) granted financial approval to the appointment of the applicant on 9.2.1990. The Respondent No. 2 Dr. Hari Shanker Yadav was not member of the management committee. During investigation the Investigating Officer collected the material from the Principal of the college but nothing has been mentioned by the Investigating Officer regarding the applicant's certificate. The applicant's qualification is Intermediate and technical drawing. He was found qualified to the post of Assistant Teacher in L.T. grade. There was no occasion to the applicant to make any forgery regarding obtaining appointment as Assistant Teacher. During investigation no material has been collected by the Investigating Officer regarding forgery committed by the applicant. The F.I.R. of this case has been lodged with mala fide intention and without doing the fair investigation the charge-sheet has been submitted by the Investigating Officer. The applicant has not submitted the mark-sheet of Shiksha Shastri for getting the appointment of Assistant Teacher. There is no sufficient material against the applicant to proceed further against him.

5. In reply of the above contention, it is submitted by learned A.G.A. that in the present case the Investigating Officer has submitted the charge-sheet after collecting the cogent evidence disclosing the commission of alleged offence. During investigation it has been revealed that the applicant has obtained the appointment on the basis of forged papers. The Investigating Officer has not committed any error in submitting the charge-sheet and learned Magistrate has also not committed any error in taking the cognizance and submitting the charge-sheet against the applicant.

6. Considering the submissions made by learned Counsel for the applicant, learned A.G.A., learned Counsel for O. P. No. 2 and from the perusal of the record it appears that in the present case the Investigating Officer has collected the material on which the charge-sheet has been submitted which discloses the commission of the offence. At this stage, it is not proper to express specific opinion on the contention which may affect the right of the accused at the stage of the trial. The learned Magistrate concerned has also not committed any error in taking the cognizance. There is no illegality in prosecution of the applicant. Therefore, the prayer for quashing the proceedings of the above mentioned case is refused.

7. However, considering the fact and circumstances of the case, it is directed that applicant shall appear before the Court concerned within 30 days from today till

then the N.B.W. if any issued against the applicant shall be kept in abeyance. In case he applies for bail, the same shall be heard and disposed of on the same day by the courts below.

With this direction, this application is finally disposed of.