
(2019) 07 MP CK 0078

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 38707 Of 2018

Madhulika & Ors

APPELLANT

Vs

State Of Madhya Pradesh & Ors

RESPONDENT

Date of Decision : 04-07-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 156(3), 482
Indian Penal Code, 1860 — Section 34, 418, 420, 468

Citation : (2019) 2 MPWN 81

Hon'ble Judges : S.K. Awasthi, J

Bench : Single Bench

Advocate : Rizwan Nizam, Prabal Jain, A.R. Khan

Final Decision : Allowed

Judgement

(1) The applicants have preferred this petition under Section 482 of the Cr.P.C. for quashment of FIR bearing Crime No. 101/2018 registered at

Police-Station-Badgonda, Indore for the offence punishable under Sections 418, 420 and 468/34 of the IPC and the consequential proceedings of

Criminal Case No. 3730/2018 pending before the court of Judicial Magistrate First Class, Mhow, District-Indore.

(2) The relevant facts for disposal of the case in nutshell are that complainant/non-applicant No.2-Pankaj Kulkarni, who is husband of applicant No.1

and son-in-law of applicant No.2, has made a written complaint before the Additional Superintendent of Police, Mhow, District-Indore and SHO,

Police-Station-Mhow alleging that at the time of negotiation of marital relations applicant No.2 told him that her daughter- Madhulika /applicant No.1

has cleared class Xth and XIIth and had given mark-sheet thereof to him and his family. Believing those documents, he married Madhulika on

27/05/2010 for the reason that she, being literate, will take care of his family at times of need. When, the complainant/non-applicant No.2 demanded

the mark sheet from Madhulika/applicant No.1 then she asserted to have kept the same with her mother Suchitra Dubey/applicant No.2. When the

complainant asked the same from applicant No.2, then she gave a photocopy thereof to him and said to have missed the original mark sheet. On the

basis of doubts over the said mark sheet, he obtained a duplicate mark-sheet from the Education Department, according to which, applicant No.1

depicting a fail result. Complainant complained about his wife and mother-in-law stating that they are indulged in the act of frauds, they are engaged in

a operating a racket of generating fabricating mark-sheets and cheating common people and prayed for registering a case against them.

(3) On receiving the aforesaid complaint, the police conducted a detailed enquiry in the matter under the directions of the SDOP, Mhow. During the

enquiry statement of the complainant as well as applicant Nos. 1 and 2 were recorded. In the enquiry it was found that there is an existing

maintenance case filed by the wife-Madhulika against the husband-Pankaj and for creating the pressure to withdraw the said case, complainant has

filed this complaint. Thus, no offence was found to be made out against the applicants and the complaint was accordingly filed by submitting closure

report therein.

(4) . Being aggrieved of the aforesaid closure report, complainant filed a private complaint before Judicial Magistrate First Class, Mhow, District-

Indore against the applicants alleging the same averments of the previous complaint and stating that the police has refused to register a case against

the applicants and thus an order under Section 156(3) of Cr.P.C. be passed to register the FIR against the applicants for the offence punishable under

Sections 418, 420 and 468/34 of the IPC. The Judicial Magistrate registered the private complaint at Criminal Case No. 3730/2018 and passed order

dated 18/12/2017, thereby directing the Police-Station-Badgonda to register the crime against the applicants, investigate the matter as provided under

Cr.P.C. and filed final report. Thereafter, Police register FIR bearing Crime No. 101/2018 at Police-Station-Badgonda, Indore for the offence

punishable under Sections 418, 420 and 468/34 of the IPC . Being dissatisfied with the order of registration of FIR, the applicants have preferred this

petition under Section 482 of the Cr.P.C. for quashment of FIR and other consequential proceedings relating thereto.

(5). Learned counsel for the applicants submitted that the learned Judicial Magistrate has grossly erred in not considering the fact that there is a

family/matrimonial dispute prevailing between the complainant and applicant No.1, which is pending before the Court and the complainant was trying

to create undue pressure against the applicants to withdraw the cases registered against him and because he failed to succeed in this intentions, he

filed the present private complaint. It is also submitted that learned Judicial Magistrate ought to have considered the closure report filed by Police-

Station-Badgonda, Indore in the previous complaint submitted by the complainant before Police, wherein it has been clearly mentioned that there is no

iota of evidence of offence committed by the applicants against the complainant. It is further submitted that the complainant claims to have admission

of forged mark-sheets, wherein the alleged mark-sheets are actually produced & exhibited by complainant out of his possession. As such no case of

fabrication of documents or fraudulence can be drawn against a person out of whose possession such documents were found. It is also submitted that

the applicant No.1 passed her class 10th in the year, 2007; whereas the complainant produced the alleged forged mark-sheet of applicant No.1 of the

year 2003 showing that this mark-sheet has been given by applicant No.1 to him, therefore, there is no mens-rea of the applicant No.1 to commit

alleged offence. Under these circumstances, learned counsel for the applicants prayed for quashment of the FIR and consequential proceedings

relating thereto.

(6). On the other hand, learned counsel for the non-applicant No.2/complainant submits that during the negotiation of marital relation of applicant No.1

and non-applicant No.2, applicant No.2 disclosed that her daughter/applicant No.1 has cleared class Xth , XIIth. She had given mark-sheet thereof to

him and his family, which was found to be forged and fabricated because when the complainant verified aforesaid mark-sheets, it was found that

applicant No.1 depicting a fail result. Therefore, the trial court has rightly directed the police for registration of the FIR against the applicants for the

offence punishable under Sections 418, 420 and 468/34 of the IPC and there is no ground available for warranting any interference in the aforesaid

order. Under these circumstances, he prayed for rejection of the petition.

(7). Learned Public Prosecutor for the respondent No.1/State opposed the prayer and prayed for rejection of the petition.

(8). Having heard learned counsel for the parties and perused the record.

(9). It is admitted fact that the applicant No.1 is the wife of non-applicant No.2/complainant and she got married with the non-applicant

No.2/complainant on 27/05/2010 applicant No.2 is the mother-in-law of non-applicant No.2/complainant.

(10). On 26/01/2016, non-applicant No.2/complainant has given a written complaint to Additional Superintendent of Police, Mhow, District-Indore and

SHO, Police-Station-Mhow, Indore alleging that during negotiation of the marriage relationship of applicant No.1 and non-applicant No.2, applicant

No.2 informed him that her daughter- Madhulika /applicant No.1 has cleared class Xth, XIIth and had given mark-sheet thereof to him and his family.

Believing those documents, he accepted the proposal for the reason that she, being literate, will take care of his family at times of need, he got married

with applicant No.1/Madhulika. When, the complainant/non-applicant No.2 demanded the mark sheet from Madhulika/applicant No.1 then she

asserted to have kept the same with her mother Suchitra Dubey/applicant No.2. Thereafter, the complainant asked the same from applicant No.2 and

she gave a photocopy thereof to him and said to have missed the original mark sheet. On the basis of doubts over the said mark-sheet, when the

complainant obtained a duplicate mark-sheet from the Education Department, according to which, applicant No.1 was failed in class XIIth, therefore,

by preparing the forged and fabricated mark-sheet, the applicants have committed cheating with the complainant. However, after conducting the

enquiry by the Police on the aforesaid complaint, it was found that there is an existing maintenance case filed by the wife-Madhulika against the

husband-Pankaj and for creating of pressure to withdraw the said case, complainant has filed this complaint. Thus, no offence was found to be made

out against the applicants, therefore, closure report was filed.

(11). Thereafter, when the complainant is not succeeded in got registered the FIR against the applicants, then he filed a private complaint against the

applicants before Judicial Magistrate, First Class, Mhow, District-Indore. Learned Magistrate without conducting any enquiry in the matter, vide order

dated 18/12/2017, sent the complaint to SHO, Police-Station-Badgonda for registration of the FIR against the applicants, to investigate the matter and

for filing of the final report. On the basis of the aforesaid order, the Police registered the FIR bearing Crime No. 101/2018 at Police-Station-Badgonda,

Indore for the offence punishable under Sections 418, 420 and 468/34 of the IPC.

(12). From perusal of mark-sheet (Ex. D/2), it reveals that applicant No.1 was appeared in the High School Open Certificate Examination (10+2),

conducted by State of M.P. in the December, 2006, however, she could not succeed in the said examination, thereafter, she again appeared in the

aforesaid examination and she has passed her Higher Secondary Examination in the month of July, 2007 (Ex. D/1). There is no verification report

available on record to show that the applicant No.1 failed in the examination of class 12th and she prepared forged and fabricated mark-sheets and

handed-over the same to respondent No.2 showing that she is having qualification of higher secondary examination.

(13). It is pertinent to note that there is a matrimonial dispute prevailing between the complainant and applicant No.1, which is pending before the

Court, therefore, the contention of the applicants cannot be ignored that in order to create undue pressure upon the applicants for withdrawal of cases

registered against him, complainant filed the private complaint against the applicants.

(14). Considering the aforesaid facts and circumstances of the case, this Court is of the view that there is no evidence available on record to show

that applicant No.1 prepared any forged or fabricated documents and produce the same before any authority for getting job or any other benefit,

therefore, the applicants have not committed any fraud or cheating with the complainant or any other persons. Accordingly, this petition deserves to be

and is hereby allowed and FIR bearing Crime No. 101/2018 registered at Police-Station-Badgonda, District-Indore for commission of offence

punishable under Sections 418, 420 and 468/34 of the IPC and consequential proceedings of Criminal Case No. 3730/2018 pending before the Court of

Judicial Magistrate, First Class, Mhow, District-Indore qua applicants namely Madhulika and Smt. Suchitra Dubey are hereby quashed.

(15). Let copy of this order be sent to the concerned trial Court for information and necessary compliance.