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**(1985) 08 P&H CK 0075**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Criminal Revision No. 1237 of 1984**

Ramesh Kumar

APPELLANT

Vs

Subhash Chander

RESPONDENT

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**Date of Decision :** 09-08-1985

**Acts Referred:**

**Citation :** (1985) 08 P&H CK 0075

**Hon'ble Judges :** K.P.S.Sandhu, J

**Advocate :** R.S. Bindra, T.P.S. Mann, Ravi Kumar, Advocates for appearing Parties

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## Judgement

K.P.S. Sandhu, J. (Oral)

1. This is a revision filed by Dr. Ramesh Kumar against the order of the Additional Sessions Judge, Gurdaspur, dated 18th July, 1984, by which he remanded the case to the trial Magistrate.

2. The facts which gave rise to this revision are as follows. The petitioner qualified as an M.B.B.S. doctor from the Medical College, Amritsar, in 1979, entered Government service and has been serving as such since then. Subhash Chander respondent lodged a report with the police on 2nd March, 1983, alleging therein that the petitioner was in fact not a member of the Scheduled Castes and was actually a Brahmin and that he managed a false certificate from the Sub Divisional Officer, Civil, Pathankot, and got a seat in the Medical College which was reserved for the members of the Scheduled Castes. The police after the investigation sent up the petitioner for trial in the Court of the Judicial Magistrate Ist Class, Pathankot. The learned Magistrate after going through the police paper and report under Section 173 of the Code of Criminal Procedure found that no prima facie case for framing a charge against the petitioner was made out. Consequently, he discharged the petitioner after passing a detailed and elaborate order. Subhash Chander respondent then filed a criminal revision in the Court of Session which culminated in the impugned order. Hence this revision.

3. The learned Magistrate came to the following finding in paras 7 and 8 of his

order which read as under :

"7. There is absolutely nothing on the record to show that the certificate showing the accused to be member of the Scheduled Caste issued by the S.D.M. Civil, Pathankot, was ever fabricated by the accused. In fact, nothing could be addressed on this point from the side of the prosecution about the genuineness of the certificate of Scheduled Caste issued by the S.D.O. (Civil) Pathankot, because it has been signed by the concerned officer and cannot be said to have been forged by the accused. There is not even a single statement either of the complainant or only witness under section 161 Cr.P.C. showing that it was the accused who had forged the signatures on the said certificate himself. When there is not an iota of evidence or allegation of the prosecution on this point the provisions of sections 467, 468, 471 I.P.C. would not come into force. In this case even the prosecution has not been able to attract the provisions of section 420 I.P.C. There is no denial that when an application is moved for the issuance of the certificate a through verification is made into the matter and only thereafter when the officer is satisfied the certificate is issued to the applicant. In this case, as already stated, the prosecution has not been able to prove prima facie the case under Section 420 I.P.C. against the accused. From the allegations of the prosecution at the most only ingredients of section 419 I.P.C. is punishable with three years imprisonment or with fine or with both. Section 458(1)(c) Cr.P.C. is applicable in such cases. Under this Section the period of limitation prescribed for taking cognizance is three years. In other words, no Court can take cognizance of the offence of this category after expiry of the period of litigation. In this case the prosecution has failed to explain the circumstances for condoning the delay by not ..... According to the prosecution allegations the accused obtained admission in the Medical College in the year 1973 and the Scheduled Caste certificate was also issued in the same year. He has already passed the M.B.B.S. course and is working as medical officer but all of sudden it has come to the knowledge of the authorities concerned that the accused has cheated them. Neither in the affidavit of Subash Chander which is the basis of this case nor in any other statement recorded by the police under section 161 Cr. P.C during the investigation of the case it has come as to when this fact came to the knowledge of the complainant. The original affidavit of Subash Chander on the basis of which the instant case was registered is on the file and there is no mention when he came in knowledge of this fact. Thus it is evident that this fact was already in their knowledge in the year 1973 when the accused got admission the Medical College. It was also in the knowledge of the Principal of the Medical College during that period. No action was taken against the accused earlier but his challan has not been presented within three years period as required under law. The Court cannot taken cognizance after expiry of the prescribed period. Now the fact is not open to the authorities to say that the accused had obtained the admission on the basis of false certificate. It was incumbent upon the authorities to verify the correctness or falsity of the certificate at the time of the admission or at least within reasonable period and not after that.

8. There is also no doubt that action against the student taking admission in the Medical College by producing false certificate of being members of Scheduled Caste/Scheduled Tribe or Backward Class can be taken if the fraud is detected within 18 months of the admission to the college. This is according to the instructions of the Government incorporated in the admission rules for medical colleges.

I have gone through the order of the learned Additional Sessions Judge. He came to the finding that at the stage of framing of the charge only the prima facie nature of the allegations was to be seen and that the learned Magistrate was not required to see whether the prosecution case would end in conviction or not. Thus he remanded the case. I don not think that in revision the Additional Sessions Judge was justified in setting aside the wellreasoned order of the Magistrate. Even if took a different view, that was no ground to remand the case to the Magistrate unless he could find that the view taken by the Magistrate was illegal or perverse or that it could not be reasonably taken. In this view of the matter, I think this petition has to succeed. The impugned order is consequently set aside.