

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE

BEFORE HON.MR. JUSTICE ALOK VERMA, JUDGE

Criminal Revision No.799/2015

Rajesh Desai S/o Shri Vallabh Desai

Vs.

State of M.P.

O R D E R

Post for 26.11.2015

**(ALOK VERMA)
JUDGE
24.11.2015**

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Vs.

State of M.P.

Shri L.R. Bhatnagar, learned counsel for the applicant.

Shri Mukesh Parwal, learned counsel for the respondent/State.

O R D E R

(Passed on this 26th day of November, 2015)

This Criminal Revision filed under Section 397 read with Section 401 of Cr.P.C. is directed against the order passed by the learned First Additional Sessions Judge-Agar, District-Agar, in Sessions Trial No.4/2015 whereby the learned Additional Sessions Judge framed charges against the applicant under Sections 420, 465, 468 and 471 of IPC.

The brief facts giving rise to this revision

are that the present applicant is father of student- Ayush Desai. It is alleged that the complainant Agar Malwa Wel Education Welfare Society, which is running a school in the name of Shri Sanskar Academy, Agar Malwa lodged a complaint to the police. The present applicant came to the school on 30.06.2009. He obtained admission form from the school and applied for admission of his son Ayush Desai in class-6th. Alongwith admission form, he submitted mark-sheet purportedly issued by Saraswati Gyan Mandir and transfer certificate issued from the above named school. On the basis of these documents, his son Ayush Desai was given admission in the school. He continued his education and passed class-6th, 7th, 8th and 9th.

On 07.03.2013, one resident of Agar Malwa Pramod Bhatnagar filed a complaint before the school that the present applicant has secured admission of his son in the school on the basis of forged document. It was also mentioned in the complaint that Ayush Desai son of the present applicant failed to pass 5th class from Pushpa

Convent school and he was declared failed by the school. He was issued transfer certificate by the school dated 08.04.2009, copy of which, was given to the complainant-Pramod Bhatnagar by Block Education Officer, Agar under the provisions of R.T.I. Act. On the basis of this complaint, a notice was issued to the present applicant, who failed to submit his reply, even after lapse of four months after receipt of the notice. Thereafter, a complaint was lodged by the school authority before the Police Station-Agar, on which, a crime bearing No.387/2013 under Sections 420, 465, 468, 471/34 IPC was registered.

By the impugned order dated 22.04.2015, the learned Additional Sessions Judge framed charges under aforementioned Sections of IPC, against which, this revision is filed on the ground that no offence is made out against the present applicant. There is no evidence available on record that the mark-sheet submitted by him is forged or fabricated. No report of hand-writing expert was obtained by the police during investigation.

Presuming that the document is forged, the charges were framed.

Learned counsel placed reliance on judgment of Hon'ble Apex Court in case of **'Shrinivas Pandit Dharmadhikari Vs. State of Maharashtra'** and **'Shaikh Noor Mohamad Shaikh Fazal Vs. State of Maharashtra'**, which was disposed of by common order and reported in **(1980) 4 S.C.C. 551**. In this case, it was held that the certificate, which is alleged to be forged and on the basis of which, the admission was secured in a college is not a valuable security, and therefore, conviction under Section 471 read with section 467 is not made out. Therefore, the conviction was altered to that of Section 471 read with section 465. He also placed reliance on judgment of Hon'ble Apex Court in case of **'Bhausahab Kalu Patil Vs. State of Maharashtra'** AIR 1981 S.C. **80'** in which also, the Hon'ble Apex Court laid down the same principles that document on the basis of which, the admission is secured in a educational institution which is alleged to be

forged is not a valuable security, and therefore, conviction under Section 471 read with Section 467 is not made out and again it was altered to Section 471 read with Section 465 IPC.

Reverting back to the present case, it is apparent that the Additional Sessions Judge did not frame any charge under Section 467 IPC, which deals with the forgery of valuable security, Will etc. In this case, charges are framed under Section 465 IPC which provides punishment for forgery, Section 468 IPC, which provides punishment for forgery for purpose of cheating and Section 471 IPC, which provides punishment for using a forged document as a genuine document and also under Section 420 IPC for cheating. As no charge is framed under Section 467 IPC, the principles laid down in the case-law cited by the learned counsel does not apply in the present case.

So far as the defence that the documents submitted by the present applicant were not a forged document can be proved at the time of evidence. The mark-sheet of the student who is

son of the present applicant was filed alongwith complaint filed by Pramod Bhatnagar, in which, the son of the present applicant was shown as failed. A transfer certificate issued by the school where son of the present applicant completed his education in class-5th was also filed, which raises a strong suspicion that the present applicant forged the document on the basis of which he applied for admission of his son, and accordingly, in considered opinion of this Court, there appears to be no irregularity or illegality in the impugned order. No case is made out for interference under Section 397 read with section 401 Cr.P.C. This revision is devoid of merits and liable to be dismissed, and dismissed accordingly.

With observations and directions as aforesaid, this criminal revision stands disposed of.

Certified copy, as per rules.

(Alok Verma)
Judge

Chitranjan