



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : Crl.Petn./160/2023

OBUK MIZE

Son of Sri Tamin Mize, Resident of Pasighat Near J.N.C, Balek Road, P.O and P.S
Pasighat, District, East Siang, Arunachal Pradesh.

VERSUS

The State of AP and Anr.

represented by the Learned Public Prosecutor (Arunachal Pradesh)

2:Smti

Yatok Tamut Talom @ Smt. Otok Tamut Talom

Age: 43

Occupation

Advocate for the Petitioner : M Biswas

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MALASRI NANDI

JUDGEMENT AND ORDER (CAV)

Date : 13-02-2024

Heard Mr. M. Biswas, learned counsel for the petitioner. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State Arunachal Pradesh and Mr. G. Taloh, learned counsel for the respondent No. 2.

2. This is an application under section 482 of Cr.P.C. r/w Section

226 of Constitution of India for quashing of order dated 16.06.2023 passed by the learned CJM, Yupia in G.R.Case No. 477/2021(corresponding to Naharlagun P.S. Case No.95/2021) under Section 465/193 IPC.

3. The case of the petitioner is that he had taken a loan of Rs. 5,00,000/-(Rupees five lakhs) only from the respondent No.2 on 14.09.2015 for a period of three months at an interest @ 8% per month. In this regard, a money receipt was executed by the petitioner on 14.09.2015. After the expiry of three months, the petitioner offered to return an amount to Rs.6,20,000/- to the respondent No.2 who refused to accept the said amount demanding an additional amount of Rs. 40,000/-. Subsequently, the petitioner had received a notice from the counsel of respondent No. 2 demanding Rs. 5,00,000/- with agreed interest from the petitioner. On inquiry, the respondent No.2 intimated the petitioner that he had to pay Rs.7,00,000/-which would include interest of Rs.2,00,000/-. Subsequently, the petitioner on 08.06.2018 issued a cheque of Rs.7,00,000/- in favor of the respondent No.2 being cheque No. 620361 of State Bank of India, Itanagar Branch and the said cheque was handed over to one Mr. Tabit Tapak, advocate, who was acting as a mediator between the parties and Mr. Tabit Tapak had also executed a money receipt as a mark of acknowledgment of the receipt of the cheque in question.

4. The allegation against the petitioner is that though the cheque was signed on 08.06.2018 but despite his having a bonafide intention to issue the cheque on the same day, due to

inadvertent mistake, the petitioner wrote '6' instead of '8' i.e. 2016 on the top of the cheque. The mistake was overlooked by both the petitioner and the advocate Mr. Tabit Tapak who had executed the money receipt mentioning the date as 08.06.2018 as well. According to the petitioner, this was purely an inadvertent and unintentional error.

5. The further case of the petitioner is that the respondent No.2 has approached before the Extra Assistant Commissioner, Itanagar(herein after EAC) for settlement of money dispute by convening a mel proceeding. Accordingly, on 15.10.2018, the petitioner received a 'mel order' from the EAC that a mel proceeding has been fixed 20.10.2018 for settlement of money dispute between the petitioner and one Taking Talom who is the husband of the respondent No.2.

6. By challenging the order dated 15.08.2018, the petitioner filed a writ petition before this Court and accordingly a notice was issued to the respondents. Though, a request was made to keep the 'mel' in abeyance till the disposal of writ petition but an exparte order was passed by the EAC directing the petitioner to return a sum of Rs.20,20,000/- including the principal amount and further directed the petitioner to deposit the said amount to the EAC, Naharlagun within a period of 15 days from the date of the mel/Kebang decision. In view of the final decision taken in the mel proceeding, the writ petition became infructuous and the same was withdrawn on 12.12.2018.

7. Thereafter, the petitioner received a show cause notice dated 08.07.2019, whereby the petitioner was asked to show cause as to why action should not be initiated against the petitioner for not complying with the mel decision of 02.11.2018. In reply, against the show cause notice, the petitioner has filed his reply on 16.07.2019 and clarified that though the petitioner had expressed his intent to pay an amount of Rs.7,00,000/- to the respondent No.2 but she had refused to accept it. Subsequently, the EAC served several notices to the petitioner by directing the petitioner to appear before him for payment of Rs.20,20,000/- as per dated 02.11.2018. As the petitioner did not pay the said amount, in the year 2021, an FIR was logged before the officer-in-charge, Naharlagun police station alleging that the petitioner had not repaid the loan amount of Rs.5,00,000/- instead had issued a cheque of Rs.7,00,000/- by fraudulently writing two dates in the said cheque. Accordingly, a case was registered vide Naharlagun P.S. case No. 95/2021 under sections 420/467/468/471 IPC. After completion of investigation, charge-sheet was submitted under the same sections of law. On appearance of the petitioner before the court, learned CJM, Yupia, framed charges against the petitioner under section 465/193 IPC. Hence, this petition for quashing of the FIR and further proceeding of the case including framing of charge against the petitioner.

8. It was urged by learned counsel for the petitioner that the 'mel' proceedings were tantamount to court proceedings insofar as section 95 Cr.P.C. is concerned. In such a circumstance, the mandatory postulate of section 195(1)Cr.P.C. could not have been

overridden either by respondent No.2 or the court of learned CJM, Yupia. It is also submitted that section 195 Cr.P.C. creates an absolute bar against a court to take cognizance of an offence except in the matter provided for under section 195 Cr.P.C. The proceedings conducted in violation of the provisions of section 195 Cr.P.C. rendered the said proceedings illegal and without jurisdiction and as such, cognizance and all subsequent proceedings are not, as per provision of law and are liable to be quashed.

9. The learned counsel for the petitioner also has pointed out that the learned Magistrate has failed to appreciate the materials placed before the court while framing charges under section 465/193 of IPC. It is also the submission of learned counsel for the petitioner that the civil proceedings under the Assam Frontier (Administration of Justice) Regulations, 1945 are exercised by Deputy Commissioners, Assistant Commissioners and Village Authorities who are appointed under regulation 51 of 1945 regulations. Gaonbura/head gaonbura are appointed under the said provision and as such they are members of village authorities.

10. It is further submitted that section 51 of 1945 regulations, provides that the village authorities have the power to try all such suits as both the parties are indigenous people of Arunachal Pradesh and residing within the territorial jurisdiction of the authority. According to the petitioner, he is originally belonged to Pasighat but the said 'mel' proceedings was adjudicated before the EAC, Naharlagun which has no jurisdiction to issue notice or subsequent proceeding for passing of the order in connection with

the said 'mel' proceeding.

11. Learned counsel for the petitioner has also contended that the EAC has no jurisdiction to pass such order, which was passed by violating the notification of the Government of Arunachal Pradesh dated 06.01.2014 where, it was reflected that the Governor of Arunachal Pradesh, in consultation with the High Court was pleased to order that the Deputy Commissioners where the judicial officers are posted, shall transfer all the pending cases, both criminal and civil to the courts of the Chief Judicial Magistrate-cum-Civil Judge(Sr. Division) for trial and disposal thereof. Henceforth, all cases both criminal and civil shall be instituted only in the court of Chief Judicial Magistrate cum Civil Judge(Sr. Division) and Judicial Magistrate cum Civil Judge(Jr. Division). It is also stated that in the same order, the Governor of Arunachal Pradesh was further pleased to order that wherever judicial officers are not posted, the Executive Magistrate in the State vested with powers of judicial Magistrate shall continue to exercise judicial power only in respect of bail and remand matter. In view of his aforesaid submission, learned counsel for the petitioner has prayed to quash the proceeding of the case in connection with G.R. Case No. 466/2021 pending before the court of CJM, Yupia.

12. In support of his submission, learned counsel for the petitioner has placed reliance on the following case laws-

(i) Salib v. State of U.P. & Ors., reported in MANU/SC/0851/2023.

(ii) Daulat Ram v. State of Punjab, reported in AIR 1962 SC 1206.

(iii) Lalji Haridas v. State of Maharashtra & Ors., reported AIR 1964 SC 1154.

(iv) Narendra Kumar Srivastava v. The State of Bihar & Ors., reported in (2019) v.3 SCC 318.

(v) Babita Lila & Ors. v. Union of India, reported in (2016) v. 9 SCC 647.

(vi) Likha Serbi v. State of Arunachal Pradesh & Ors., reported in (2006) 1 GLT 580.

(vii) State of Punjab v. Davinder Pal Singh Bullar & Ors., reported in (2011) v. 14 SCC 770.

(viii) Iqbal Singh Marwah & Anr. v. Meenakshi Marwah & Anr., reported in (2005) v. 4 SCC 370.

(ix) Iqbal @ Bala & Ors. v. State of Uttar Pradesh & Ors., reported in (2023) v.8 SCC 734.

13. In response, the learned Additional Public Prosecutor for the State, Arunachal Pradesh, submits that there was sufficient materials on record against the petitioner relying on which the learned CJM has framed the charges and this Court needs no interference with the charges framed against the petitioner in

exercise of the power of this Court under section 482 Cr.P.C. It is also submitted that there is no ground made out for exercising of the power of this Court under section 482 Cr.P.C. for quashing the order of the learned CJM for framing of charge against the petitioner.

14. It is also the submission of learned Addl.P.P. that the submission put forth by the learned counsel for the petitioner regarding power of the EAC to issue notice to the petitioner or pass any order for conducting 'mel' or enhance the amount of loan to be paid by the petitioner, certainly those are not matters which should be considered by this Court in this proceeding under section 482 Cr.P.C. as this Court cannot conduct a mini trial to pronounce on the admissibility and verify of such documents.

15. The learned Addl.P.P. in support of his submission has cited the following case laws-

(i) Sachida Nand Singh & Anr. V. State of Bihar & Anr., reported in (1998)) Supreme (SC) 146.

(ii) Fadi Fadel son of Aziz Fadel v. The State of Bihar, reported in (2018) 1 BLJ 269.

(iii) Sushil Suri v. C.B.I. & Anr., reported in 2011(3) Supreme 654.

(iv) Supriya Jain v. State of Haryana & Anr., reported in 2023

SCC OnLine SC 765.

16. Before considering the rival contentions, it is appropriate to look into the scope and power of this Court under section 482 Cr.P.C. In the case of ***Smti. Rashmi Kumar vs. Mahesh Kumar Vhada*** reported in ***1997 v.2 SCC 397***, the Hon'ble Apex Court held that inherent powers of the court are meant to be exercised for securing the ends of justice and not meant for interfering with mere technicalities of law.

17. In the case of ***State of Punjab versus Kasturilal and Ors.*** reported in ***AIR 2004 SC 4087***, the Hon'ble Apex Court held that though it is open to a high court for entertaining a petition under section 482 Cr.P.C. to quash charges framed by the trial court, the same cannot be done by weighing the correctness or sufficiency of evidence. Thus, in a case praying for quashing of the charge, the principle to be adopted by the high court should be that if the entire evidence produced by the prosecution is to be believed, would it constitute an offence or not. The truthfulness, the sufficiency and acceptability of the material produced at the time of framing of charge can be done only at the stage of trial. It is to be noted that even when the Magistrate has power under section 190 Cr.P.C. to take cognizance, he would not be precluded of his power under Section 200 Cr.P.C.,

18. In respect to the plea of Section 195 Cr.P.C., it is apt to reproduce here section 195 Cr.P.C. which reads as follows-

“S195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence- (1) No Court shall take cognizance-

(a)(i) of any offence punishable under section 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b)(i) of any offence punishable under any of the following section of the Indian Penal Code (45 to 1860), namely, section 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to has been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), [except on the complaint in writing of that Court or by such officer of the Court as that Court may authorize in writing in this behalf, or of some other Court to which that Court is subordinate].

(2) Where a complaint has been made by a public servant under clause (a) of sub-section 91) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decree no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that-

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed."

19. Further, it is proper to take up the point as to whether the citation which has been relied upon by the learned counsel for the petitioner as well as respondent would be applicable here or not i.e. Iqbal Singh Marwah & Anr. v Meenakshi Marwah & Anr(supra).

20. In this case, the question involved was whether bar contained in section 195 (1) (b) (ii) Cr.P.C. would apply if forgery of a document was committed before the said document was produced in court as mentioned by the learned counsel for the petitioner in Sachida Nand Singh(supra).

21. Hon'ble Supreme Court observed that the said bar would not be applicable to a case where forgery of document was committed before the document was produced in a court. But in view of the conflict of opinion before the decisions of the Supreme Court in Sachida Nand Singh and Surjit Singh case (1996 v.3 SCC 533), the appeal was placed before the Hon'ble Apex Court and in the said appeal the facts were that the appellants filed proceedings before the District Judge for grant of probate of a will allegedly executed by the deceased(brother of the appellant).The respondents filed a criminal complaint for prosecution of the appellants and their mother under section 192/193/463/464/465/467/ 469/471/499/500 IPC on the ground that the said will produced by the appellants was a forged and fictitious document.

22. In view of the above, bar contained in section 195(1)(b)(ii) Cr.P.C., the Magistrate dismissed the complaint. In revision relying upon Sachida Nand Singh case, the Sessions Judge held that the

bar contained in section 195(1)(b)(ii) would not apply where forgery of a document was committed before the said document was produced in court. The High Court upheld the order of the Sessions Judge and hence, the appeal was preferred before the Hon'ble Supreme Court which held that clause (b)(ii) of 195(1) Cr.P.C. contemplates a situation where the offences enumerated therein are committed with respect to a document subsequent to its production or giving in evidence in a proceeding in any court.

23. The scheme of clauses (a) and (b) (ii) of section 195(1) being that the offence described therein should be such which has direct bearing or affects the functioning or discharge of lawful duties of a public servant, or has a direct co-relation with the proceedings in a code of justice, the expression when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any court occurring in clause (b) (ii) should normally mean commission of such an offence after the documents has actually been produced or given in evidence in the court. The situation or contingency where an offence as enumerated in this clause has already been committed earlier and later on the document is produced or is given in evidence in court does not appear to be in tune with clauses (a)(ii) and (b)(i) and consequently with the scheme of the section 195 Cr.P.C.

24. It is very much evident from the interpretation made by the Hon'ble Apex Court that for any offence which has been stipulated under section 195 Cr.P.C quoted above, bar would be applicable only when forgery in the document is committed subsequent to its

having been filed before the court, and not if the said forgery has been committed prior to its filing before the court.

25. In the case in hand admittedly, charge was framed under section 465/193 IPC, and both the sections has found mention in the provision under section 195 Cr.P.C. The allegation against the petitioner is that the forgery which is stated to have been committed by the petitioner by issuing an invalid cheque by putting the year 2016 and 2018 in one cheque. Next, the point of invocation of offence under section 463 and 193 are to be taken into consideration in the case. Section 463 IPC reads as follows-

“Section 463- Forgery- Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.”

26. Learned counsel for the petitioner would further submit that the FIR registered against the petitioner on the basis of complaint filed by the complainant is illegal and against the provisions of Section 340 of Cr.P.C. It is further submitted that if any fraud played in court proceedings, then, as per section 195 of Cr.P.C., the prosecution for contempt of lawful authority of public servants, for offences against public justice, and for offences relating to false and fabricated documents given in evidence, no court shall take cognizance of any criminal conspiracy committed before it, except on the complaint writing of the public servant concerned or of

some other public servant to whom he is administratively subordinate. As such, registration of an FIR on the basis of complaint made by the respondent No.2 is not tenable.

27. The learned counsel for the petitioner would further submit that as per Section 340 of the Cr.P.C., wherein provisions as to offences affecting the administration of justice is mentioned. Section 340 of the Cr.P.C. provides for procedure in cases mentioned in Section 195 Cr.P.C. This section provides that when upon an application made to it in this behalf or otherwise, any court is of opinion that it is expedient in the interest of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed or in relation to a proceeding in that court or as the case may be, in respect of a document produced or given in evidence in a proceeding in that court, such court may, after such preliminary inquiry, if any, as it thinks necessary, may conduct the said inquiry.

28. He would further submit that if the petitioner has submitted false and fabricated document before the EAC in the customary court proceeding, then the EAC or subordinate to him, is the only authority to file a complaint, not other individual, in the present case i.e. respondent No.2. As such, the registration of the FIR against the present petitioner is illegal and liable to be set aside.

29. Learned counsel for the respondent No. 2 has submitted that the Hon'ble Supreme Court has reiterated time and again that it is

improper to quash criminal proceedings under section 482 Cr.P.C. when serious triable allegations are there in the complaint, and appreciation of evidence is not permissible at the stage of quashing of the FIR. He would further submit that the petitioner has committed fraud by issuing an invalid cheque intentionally not to withdraw the cheque amount. The EAC, Itanagar or the other officials relating to the customary court were not personally affected by the said act of the petitioner. Hence, no legal action could be taken by them against the petitioner. The learned counsel for the respondent No. 2 further submitted that the FIR registered against the petitioner is legal, justified and does not warrant any interference by this Court.

30. Learned Additional Public Prosecutor would submit that on due investigation, the police has found prima facie case against the present petitioner and accordingly charge-sheet was submitted under section 191/420/468/471 IPC. Hence, it is clear that the FIR lodged against the petitioner is legal and justified and not liable to be interfered by this Court. He would further submit that regarding quashing of the FIR placing judgment rendered by the Hon'ble Supreme Court in the case of State of Haryana vs. Bhajanlal(supra). The learned Addl.P.P. also submitted that the certain exceptions have been carved out by the Hon'ble Supreme Court in the case of State of Haryana vs. Bhajanlal (supra). The present case does not fall within such exceptions. Therefore, the present petition is not maintainable and liable to be dismissed.

31. Learned counsel for the petitioner would further submit that

registration of FIR alleging submission of false documents by the petitioner before the EAC is amount to giving false and forged documents which certainly falls within the ambit of offence relating to forged documents given in the evidence in the judicial proceeding. Therefore, the provisions of section 195 of the Cr.P.C. will be attracted. He would further submit that section 340 of Cr.P.C. also deals with the procedure to be followed in commission of cases mentioned in section 195 of Cr.P.C.

32. On the other hand, learned counsel for the respondent Nos. 1 and 2 would oppose the submission made by the learned counsel for the petitioner and would submit that since the petitioner has given forged documents, therefore, framing of charge for committing the offence punishable under section 465/193 IPC is legal, justified and does not warrant any interference by this court.

33. From bare perusal of the FIR and considering the contents of the complaint, it reveals that the informant lodged the FIR after six years of taking loan from the respondent No. 2 by the petitioner. The alleged cheque was in the hands of the informant at the time of the filing of the FIR. The allegation against the petitioner is that he issued an invalid cheque by giving two dates with an intention not to encash the cheque amount by the respondent No. 2. The explanation given by the informant regarding delay of lodging FIR is that as the concerned official has failed to file the complaint in time, so that the delay was occurred. Under such backdrop, it can be said that the provisions of section 195 and 340 of Cr.P.C. will be attracted as per law laid down by the Hon'ble Supreme Court in

Narendra Kumar Shrivastava(supra) wherein it has been clearly held that a prosecution under this section can be initiated only by the sanction of the court under whose proceedings an offence referred to in section 195(1)(b) as allegedly been committed.

34. Hon'ble Supreme Court in the case of Patel Laljibhai Somabhai vs. State of Gujrat, reported in AIR 1971 SC 1935 while examining the purpose and object of the legislature in creating the bar against cognizance of private complaints in regard to the offences mentioned in section 195(1)(b) and (c) is both to save the accused person from vexatious or baseless prosecution inspired by feelings of vindictiveness on the part of the private complaints to harass their opponents and also to avoid confusion which is likely to arise on account of conflicts between findings of the courts in which forged documents are produced or false evidence is laid and the conclusions of the criminal courts dealing with the private complaint. It is for this reason, as suggested earlier, that the legislature has entrusted the court whose proceedings had been the target of the offence of perjury, to consider the expediency in the larger public interest, of a criminal trial of the guilty party.

35. Hon'ble Supreme Court in Gopalakrishna Menon & Anr. Vs. D. Raja Reddy & Anr., reported in 1983(4) SCC 240 has held as under-

“In view of what we have said above, the prosecution in the same case on the basis of a private complaint and in the absence of a complaint from the appropriate civil court where the alleged fraudulent receipt has been produced would not

be sustainable. As we are of the view that if the prosecution is allowed to continue, serious prejudice would be caused to the appellants and they would be called upon to face a trial which would not be sustainable, we allow this appeal and set aside the decision of the high court and quash the complaint case filed against the appellant."

36. Hon'ble Supreme Court in Narendra Kumar Shrivastava (Supra), has held that perjury on the basis of private cognizable offence under this Section can be initiated only by the sanction of the court under whose proceedings an offence referred to in Section 195(1)(b) has allegedly been committed. Hon'ble Supreme Court has held, as under-

"In Sachida Nand Singh[(2000)1SCC278] relied on by the learned counsel for the appellant, this Court was considering the question as to whether the bar contained in Section 195(1)(b)(ii) of the Cr.P.C. is applicable to a case where forgery of the document was committed before the document was produced in a court. It was held:

"A reading of the clause reveals two main postulates for operation of the bar mentioned there. First is, there must be allegation that an offence (it should be either an offence described in Section 463 or any other offence punishable under Sections 471, 475, 476 of the IPC) has been committed. Second is that such offence should have been committed in respect of a document produced or

given in evidence in a proceeding in any court. There is no dispute before us that if forgery has been committed while the document was in the custody of a court, then prosecution can be launched only with a complaint made by that court. There is also no dispute that if forgery was committed with a document which has not been produced in a court then the prosecution would lie at the instance of any person. If so, will its production in a court make all the difference?

XXXXXXXXXX

The sequitur of the above discussion is that the bar contained in Section 195(1)(b) (ii) of the Code is not applicable to a case where forgery of the document was committed before the document was produced in a court. Accordingly we dismiss this appeal."

37. Considering the submission made by the learned counsel for the parties and considering the fact as derived from records of the case would clearly demonstrate that the police has registered the FIR on the basis of the complaint made by the respondent No.2 with regard to issuance of invalid cheque which certainly falls within the ambit of section 195(ii) Cr.P.C., which provides that no court shall take cognizance of any offence described in Section 463, or punishable under section 471, section 475 or section 476, of the said code, when such offence is alleged to have been committed in respect of a document produced or given an evidence in a

proceeding in any court. It also appears from the documents available in the record that the alleged cheque was produced in the court proceeding before the EAC. Therefore, the same definitely falls within the ambit of forged document and on the basis of forged document as per averment in the FIR certain beneficial orders were passed in favour of the respondent No. 2. Therefore, from the above stated legal proposition as held by Hon'ble Supreme Court in the case of Narendra Kumar Shrivastava (Supra) and Patel Laljibhai Somabhai (Supra), it is crystal clear that the registration of FIR against the present petitioner on the basis of complaint made by the respondent No. 2 is not tenable.

38. In view of above, the FIR dated 10.06.2021 vide Naharlagun P.S. Case No. 95/2021 and further proceeding in connection with G.R. Case No. 477/2021 including the framing of charge, pending before the court of learned CJM, Yupia is hereby quashed.

39. In the result, the criminal petition is allowed and disposed of accordingly.

JUDGE

Comparing Assistant