



2024:UHC:8621

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 388 of 2024

Manish Kumar

.....Petitioner

Versus

State Of Uttarakhand and another

.....Respondents

Presence:-

Mr. Ravi Bisht, Advocate for the petitioner.

Mr. G.S. Sandhu, Additional Advocate General along with Ms. Mamta Joshi, Brief Holder for the State.

Dated: 20.11.2024

Hon'ble Vivek Bharti Sharma, J.

This petition is filed by the petitioner/accused for quashing of the summoning order dated 27.07.2024 passed by learned Chief Judicial Magistrate, Almora as well as chargesheet dated 27.06.2024 in Criminal Case No. 664 of 2024 "*State vs. Manish Kumar*" under Sections 420, 467, 468 & 471 I.P.C.

2. Brief facts of the case are that the petitioner applied for the post of Gramin Dak Sewak and submitted application along with relevant documents for the said post against an advertisement issued by Government of India; that, after completion of screening procedure, the petitioner was appointed as Gramin Dak Sewak on provisional basis at Post Office Syalidhar Almora; that, respondent no.3 has lodged an F.I.R. dated 19.01.2024 at P.S. Kotwali Almora, District Almora against the petitioner/accused alleging therein that the petitioner/accused has got the job of Assistant Branch Post Master (Gramin Dak Sewak) on the basis of fake High School Certificate; that, in pursuance of



the said F.I.R., the Investigating Officer after completion of the investigation has submitted charge sheet against the petitioner/accused under Sections 420, 467, 468 & 471 I.P.C. and the court of Chief Judicial Magistrate, Almora issued cognizance order against the petitioner/accused vide order dated 27.06.2024 in Criminal Case No. 664 of 2024. Hence, this petition is filed by the petitioner to quash the entire criminal proceedings.

3. Counsel for the petitioner would submit that the petitioner/accused after having successfully completed the screening procedure got his appointment in the postal department and has discharged his duties with due diligence; that, it is shocking and surprising to the petitioner/accused that the F.I.R. has been registered against him; that, offences under Sections 467, 468, 420 I.P.C. are not made out against the petitioner for the reason that Section 467 I.P.C. prescribes punishment for forgery of a valuable security.

4. He would further submit that it is a settled principle of law that the certificate on which the petitioner obtained employment is not a valuable security as the expression is defined in Section 30 of I.P.C. In support of his submission, he would refer to the judgment of the Hon'ble Supreme Court in the case of *Bhausahab Kalu Patil Vs. State of Maharashtra* (1980) 4 SCC 551, wherein the Supreme Court has altered the charge to Section 471 r/w 465 of IPC and the matter was remanded to the Trial Court after setting aside the sentence by observing that the accused had produced forged certificates to get



admission in the Arts and Commerce college, which is not a valuable security as defined in under Section 30 IPC, therefore, Section 467 IPC is not attracted against the petitioner/accused. The relevant portion of the judgment (*Supra*) reads as under:

“The appellant was convicted of offence under Sections 417, 420 read with Section 511 and Section 471 read with Section 467 of the Indian Penal Code and sentenced to various terms of imprisonment and fine for those offences. Having heard counsel for both sides we do not find any reason to disturb the order of conviction in respect of offences under Sections 417 and 420 read with Section 511 but as regards the offence under Section 471 read with Section 467 IPC we do not think that the two certificates the appellant has been found to have forged to get admission in the Arts and Commerce College affiliated to Poona University could be described as valuable security as the expression is defined in Section 30 of the Indian Penal Code. We therefore alter the conviction under the aforesaid sections to one under Section 471 read with Section 465 of the Indian Penal Code...”

5. Learned State counsel has vehemently opposed the submissions of counsel for the petitioner by submitting that the nature of the alleged offence is serious; that, it is admitted case that the petitioner/accused was illegally appointed in the Postal Department on the basis of the alleged forged and fabricated marksheet and on that basis drew salary from the Postal Department and has, thus, wrongfully gained by his illegal acts and hence offences under Section 420, 467, 468 & 471, of I.P.C. are made out against him, therefore, the petitioner/accused is not entitled to get any relief at this stage and the



instant petition is liable to be dismissed.

6. Perused the record in view of the submissions made by counsel for the parties.

7. *Prima facie*, it seems that the petitioner/accused secured employment in the Postal Department as Assistant Branch Post Master on the basis of the forged marksheet and the trial court also after considering all the evidence on record had issued summoning order against the petitioner/accused. As far as the judgment relied upon by the counsel for the petitioner/accused *Bhausahab Kalu Patil (Supra)* is concerned, wherein the Hon'ble Apex Court has held that if certificate is forged to get the admission in college, it is not a valuable security within the meaning of sections 30 and 467 of the IPC, this finding has been rendered by the Hon'ble Apex Court after the trial had concluded and the conviction was recorded by the trial court, however, in the present case, the petitioner/accused seeks quashing of the chargesheet and summoning order, therefore, the reliance placed by the counsel for the petitioner on the judgment (*Supra*) is not acceptable at this stage.

8. The other grounds taken in the petition are matter of evidence, which can be appreciated by the trial court only and not by this Court in its inherent jurisdiction under Section 528 B.N.S.S. It is trite that the power under Section 528 B.N.S.S. have to be exercised sparingly, carefully and with caution and only to prevent abuse of process of any Court or otherwise to secure ends of justice. In view of this Court, this is not a fit case where the power u/s 528 B.N.S.S. should be exercised.



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9. Accordingly, the present C-482 petition lacks merits and the same is hereby dismissed.
10. No order as to costs.

(Vivek Bharti Sharma, J.)
20.11.2024

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