

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Order delivered on: 28th May, 2015

+ **CRL.M.C. 2419/2015**

STATE (NCT) OF DELHI

..... Petitioner

Through Mr.Ravi Nayak, APP for the State.

versus

RAJ KUMAR MISHRA

..... Respondent

Through None.

**CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH**

MANMOHAN SINGH, J.

Crl. M.A. No.8391/2015 (for exemption)

Exemption allowed, subject to just exceptions.

The application is disposed of.

CRL.M.C. 2419/2015

1. The present application has been filed against the impugned judgment dated 13th November, 2014.
2. The fact of the matter is that the respondent filed an application for registration under Medical Council Act on 14th May, 2001. A

letter dated 4th June, 2001 was written by the Deputy Secretary, Medical Council of India, Moscow regarding confirmation of the authenticity of documents submitted by the respondent. On 17th August, 2001 a letter received through fact transmission by the Deputy Secretary, Medical Council of India from the Counsellor (Education) & Director (JNCC), Embassy of India, Moscow regarding information received from the Vice Rector on International Activities, People's Friendship, University of Russia, Moscow that the Diploma in question was never issued to the respondent by the University along with the unsigned letter dated 13th August, 2001 of the Vice-Rector on International Activity of People's Friendship University of Russia, Moscow. On the basis of written complaint of the Deputy Secretary of the Medical Council of India FIR No.248/2002 under Sections 420/468/471 IPC was registered on 4th June, 2002. Charge sheet was filed on 15th April, 2009 in the Court. The respondent was discharged on 23rd January, 2013 for the offences under Sections 420/468/471 IPC. Petitioner filed a criminal revision petition on 19th March, 2013 before Sessions Court. The said revision petition was dismissed on 13th November, 2014.

3. Heard learned counsel for the petitioner. While discharging the accused, the trial Court has passed the detailed order, relevant portions are reproduced as under :-

The first evidence pertains only to the factum of use of Diploma allegedly forged and used for cheating. Unless, the accused could be shown in possession of

FORGED document, use of document cannot be called incriminating at all.

Record reveals that the verification report was sent by the Embassy of India wherein it has been endorsed that it is informed by the Vice-Rector on International Activities, People's Friendship, University of Russia, Moscow that Diploma under consideration was never issued to accused. This fax is also enclosed with a letter dated 13th August, 2001, which reads that university cannot confirm that these Diplomas have been awarded to above Indian Nationals because numbers given in Diplomas are not accordant to the numbers being given in 1998-99 and besides this mentioned registered numbers was given to Embassy through letter dated 13th August, 2001 which is not bearing the signatures of any person. There is nothing on record to connect the fact that this information was sent by People's Friendship University of Russia. There is no letter issued or sent by People's Friendship University of Russia to state this fact at any point of time. Embassy of India is not the appropriate and competent authority to state this fact. The information is based upon the document which are neither prepared nor maintained by Embassy of India. It could only transmit the information as sent by the People's Friendship University of Russia. There is nothing on record to support such transmission. No attempt is made to receive the report directly from People's Friendship University of Russia. In the consideration opinion of this Court, the information of Embassy of India is neither the primary evidence nor the secondary evidence as this fax sent by Embassy is not even

reflecting that any person from Embassy of India had himself seen the contents of documents on the basis on which it is concluded that copy of diploma submitted by the accused is forged. Record reveals that signature of G. Ravindaran attach Counsellor dated 29th June, 1999 were well present on alleged diploma and specimen signature of G. Ravindaran were called by IO which were duly sent but the signature of G. Ravindaran present on diploma were not sent for comparison with the specimen signatures in order to present the allegations of forgery of M.D. Degree. Therefore, there is no doubt that the for itself does not constitute any evidence at all to impute forgery of the Diploma.

4. Even the matter was reconsidered and re-examined by the Revisional Court/ ASJ/Special Judge NDPS and following conclusion was given :-

Present case was filed against the respondent-accused on the ground that degree of MD allegedly issued by People's Friendship University of Russia, bearing No.109/M dated 3rd July, 1998 was certified by GG Sokolov Vice-Rector of People's Friendship University of Russia, which was forwarded by Sh. Satbir Singh, Counsellor (Education) & Director (JNCC), as not been issued to respondent-accused Raj Kumar Mishra. Therefore, prosecution filed the case on the complaint of Sh. A.K. Nayyar, Deputy Secretary, Medical Council of India.

I have carefully perused both the relevant documents. It is clear from the letter written by Vice-Rector of People's Friendship University of Russia that the letter dated 13th August, 2001 does not bear any signatures or stamp of the person writing said letter. This also does not bear any stamp or authorization from the concerned People's Friendship University of Russia. From mere perusal of this document, document cannot be said to have been written or issued by the person authorized to give the information. Since the document is unsigned, this has no bearing on the case, even if the charge is framed on the basis of this document, the accused/ respondent cannot be convicted solely on the basis of this document. Sh. Satbir Singh, Counsellor (Education) & Director (JNCC) had no authority to convey or certify that whether the degree issued in favour of Raj Kumar Mishra was genuine degree or the fake degree unless same information is supplied by the university itself. In the absence of there being any information from authorized person to certify whether the degree issued in the name of Raj Kumar Mishra, respondent herein, placed on record, is valid degree or not, no prima facie case can be made out against accused of having forged degree, unless the degree is opined to be false and fabricated. No such prima facie view can be taken by the Court. There is no material available on record to arrive at a conclusion of the above said degree being false or fabricated.

5. I have gone through both the orders. I find that there is no legal infirmity in the same. Sitting in this jurisdiction after the dismissal of revision petition, there is no scope our interference unless the orders passed by the trial Court or revisional Court are perverse and against

the law. No such material is available in this regard. Petition is accordingly dismissed.

(MANMOHAN SINGH)
JUDGE

MAY 28, 2015