

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 209

Criminal Miscellaneous No.M-23161 of 2016 (O & M)

Date of Decision: August 24, 2016

Rajbala

..... PETITIONER

VERSUS

State of Haryana

..... RESPONDENT

...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

...

PRESENT: - Mr. Shashi Bhushan, Advocate, for Mr. Bikram Chaudhary, Advocate, for the petitioner.

Ms. Neelam Kashyap, Deputy Advocate General, Haryana.

Mr. H.S. Brar, Advocate, for the complainant.

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Jaspal Singh, J

1. The instant petition has been preferred by Rajbala under Section 438 Cr.P.C. in case FIR No.119 dated April 28, 2016, under Sections 420, 467, 468, 471, 472, 120-B IPC, Police Station, Agroha, District Hisar.

2. The instant case stands registered on the basis of a complaint lodged by Rajeev Kumar son of Madan Lal who has alleged that petitioner Rajbala contested the election for the post of Sarpanch of village Asrawan, Tehsil Adampur, District Hisar. At the time of filing her nomination form, she attached the forged and fabricated certificate of middle standard

examination issued by Janta High School, Bhatinda (Punjab), whereas, in the session 1992-93, no such certificate was issued by Punjab School Education Board (for short, 'PSEB'). It is further alleged that Rajbala is an illiterate lady and the forged certificate with regard to her educational qualification has been furnished by her just to show that she is qualified to contest the election.

3. The contention of learned counsel for the petitioner is that petitioner has been falsely impleaded in the instant case which has been registered at the instance of husband of the candidate who remained unsuccessful during Panchayat elections. Moreover, petitioner has already joined investigation in compliance of order dated July 13, 2016 passed by learned Additional Sessions Judge and all the documents required for the purpose of investigation have already been produced by her before the Investigating Officer.

4. Learned counsel for the petitioner further contends that in the year 1992-93, examination of middle standard was not held by 'PSEB' and it was only due to said reason, the certificate was issued by the School itself which is otherwise recognized one. In this context, learned counsel for the petitioner has referred to letter dated June 23, 2016 (Annexure P-2) to show that in the year 1992-93, PSEB did not conduct the examination. However, during the course of arguments, contentions of learned counsel for the petitioner were found to be wrong and misleading.

5. Undisputably, PSEB did not held the examination for the middle standard. Rather, the said examination was conducted by SCERT and the certificates to the concerned candidates were issued under the signatures of District Education Officer (Schools) on behalf of Education Department,

District Education Officer, Bathinda on the certificate furnished by the petitioner are also alleged to be forged and fabricated. There is no such record with regard to issuance of aforesaid certificate in question maintained by the school or the office of Education Department. Thus, in such circumstances, the fact that petitioner has joined investigation, does not *ipso facto* mean that she is entitled to the discretionary relief of pre-arrest bail under Section 438(2) Cr.P.C. The discretion envisaged under Section 438(2) Cr.P.C. otherwise, is, required to be exercised sparingly judiciously, that too, in cases where allegation(s) appear(s) to be either groundless or false, but in the case in hand, no such observation can be made at this stage. Otherwise also, custodial interrogation of the petitioner would certainly reveal certain facts as to how and from where the certificate in question has been procured by the petitioner.

7. Dismissed.

August 24, 2016

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**(Jaspal Singh)
Judge**

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No