

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 8 of 2017**

- Vijay Kumar Barman S/o Dujeram Barman Aged About 38 Years R/o Parsada, Police Station Hasaud, District Janjgir- Champa, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through S.H.O. Police Station Hasaud, District Janjgir- Champa, Chhattisgarh.
2. Sumeet Kalra S/o Vasudev Kalra Aged About 31 Years R/o Shahid Bhagat Singh Nagar, Street No. 7, Police Station Rampura, Bhatinda, Punjab, Present Residing At- S.O.- 3033-31 Sector-22, D. Opposite, Kisan Bhawan, Chandigarh, Police Station Sector-22, Behind Novelty Restaurant, Chandigarh.

---- Respondents

For Applicant

Mr. S.K. Verma, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****06.01.2017**

1. The present Petition under Section 482 has been filed seeking for quashment of Criminal Prosecution initiated against the present Petitioner in Crime No. 129/15 registered at Police Station – Hasaud, Dist. - Janjgir -Champa.
2. The Case in brief is that the Police authorities during the course of the investigation in another Crime i.e. Crime No. 107/2015 where the present applicant was being prosecuted for the offence under Section 370 (3) IPC came to know about the fact the Petitioner is

also in possession of fake mark-sheets of class 10, 12 and 3 years decree course Bachelor of Science. The Police subsequently have registered a separate F.I.R. in respect of the finding of false fabricated certificates from the possession of the Petitioner vide the Crime No. 129/2015 which is under challenge in the present Petition. Based upon which the Criminal Case No. 354/2016 has been filed before the Judicial Magistrate First Class, Jaijaipur in District Champa.

3. Learned Counsel for the Applicant submits that it is the case where the police authorities only found certain documents which were in possession of the present Applicant i.e. the mark-sheet of 10, 12, and 3 years decree course of B.Sc. According to the Counsel for the Applicant it is not the case where the present applicant has tried to use those documents for his benefit or has in the past used those documents for going overseas. According to the applicant mere retaining or possessing those documents by itself would not amount to criminal offence.
4. It was also contended by Shri V.C. Ottalwar, Counsel for the Applicant that the present case does not fall under Section 468 IPC for the simple reason that the Police authorities have not been able to establish the fact that the present Applicant had used those documents with an intention of cheating. Once when the ingredients of cheating and the use of those documents have not been established the offence itself under section 468 IPC is not made out and thus prayed for quashment of the entire criminal prosecution initiated against the present Applicant vide Crime No. 129/2015 registered at Police Station- Hasaud, District – Janjgir-Champa.

5. The State Counsel however opposing the Petition submits that it is a case where finding of the documents from the possession of the present applicant is not in dispute. The very fact that the Petitioner had school certificate of class 10th 12th and 3 years degree course of B.Sc. is in itself a sufficient indication of the fact that the Applicant had intended to use those documents for his benefit. The State Counsel therefore submits that since the possession of the fake documents are not in dispute it is not the case for quashment of charge sheet at this juncture. The Contention of the applicant is the matter which can be adjudicated upon only after recording of the evidence.

6. Having considered the contentions put forth on either side what is relevant at this juncture is to consider the provisions under Section 468 IPC for ready reference Section 468 of the IPC is reproduced herein under:-

“468. Forgery for purpose of cheating.—Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

7. From reading of the provision clearly indicates that whenever a person is found to be in possession of certain forged documents that he has kept with him with an intention of cheating someone at an appropriate time is already inculcated in the provision itself. In the present case according to the Counsel for the Applicant, the Applicant has not used the document for his benefit so as to make out offence under Section 468 therefore would not be sustainable for

the reasons that very purpose of the creation of these document is with intention of using the same for ulterior motive.

8. Even otherwise at this stage it is only charges which have been framed against the present Applicant the matter still has to be thrashed out by leading proper evidence by the prosecution to prove the case against the present Applicant under Section 468 IPC .
9. For the aforesaid reasons this Court is of the opinion that no strong case has been made out for interfering with the charge sheet for the offence under Section 468 IPC.
10. Thus the Petition being devoid of merits stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE