

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 3993 OF 2013

Dr. Vasant Parshuram Sakpal

... Petitioner

vs.

The State of Maharashtra and ors.

... Respondents

Mr. Ashok Bhatia i/by Mr. Khan Saba Maqbool Hasan, Advocate for the petitioner.

Mr. V. B. Konde Deshmukh, A.P.P. for the State/respondent no.1.

Mr. Rui A. Rodrigues a/w Mr. Abhishek Tripathi, Advocate for respondent no.2.

Coram : Smt. R. P. SondurBaldota, J.

Date : 7th February, 2017

P.C. :

1. The petitioner is the accused in CC No.93/P/2002 pending in the Court of Additional Chief Metropolitan Magistrate, 47th Court, Esplande, Mumbai for the offence punishable under Sections 419, 420, 465, 466, 467, 468, 471 and 474 of Indian Penal Code r/w Section 120-B of Indian Penal Code and Section 33 and 36 of Maharashtra Medical Practices Act, 1961. He had filed application before the trial Court for discharge from the proceedings. That application was dismissed by the order dated 21st May, 2011. Being aggrieved by the order he had approached the Sessions Court with Criminal Revision Application No.771 of 2011. By the order dated 15th May, 2013 the Sessions Court dismissed his revision application.

2. The brief case of the prosecution is that upon receiving confidential report from the committee constituted by the Government of Maharashtra, about bogus Ayurvedic Doctors, who had obtained registration with Maharashtra Medical Council of India Medicine (MMCIM) by submitting bogus qualification certificates issued by various colleges / institutions all over the Country, the then Under Secretary, Medical Education and Drugs Department of Mantralaya, Mumbai lodged report with Colaba Police Station vide FIR No. 56 of 2001. The investigation into the complaint revealed that 350 doctors all over Maharashtra had registered themselves on the basis of the bogus qualification certificates and were practicing as doctors. The petitioner is one of them who has been practicing at village Deoghar, Tq. Guhagar, Dist. Ratnagiri. The certificate of qualification produced by the petitioner before MMCIM at the time of registration was a certificate from an institute by name "Hindi Sahitya Sammelan, Allahabad, Uttar Pradesh" allegedly issued in the year 1965. The certificate neither refers to the name of the college attended by the petitioner nor the duration of the course, nor the years in which he had attended the course. Therefore the petitioner has been charge-sheeted for the offences alleged against him. He was arrested and has since been released on bail. Subsequently on 13th March, 2002 supplementary charge-sheet has been filed against him.

3. On 2nd September, 2005, the petitioner filed an application for discharge before the trial Court. The trial Court rejected the application, observing that production of xerox copies of documents by the petitioner was not sufficient. The

Court was require to see the original and also verify that competent authority who had registered the petitioner had the certificates.

4. The Sessions Court while dismissing his revision application against the order refusing discharge has noted that prima facie there is sufficient material on record to proceed against the petitioner. It noted that the subsequent statement placed on record by way of affidavit of Mr. D. V. Vange, Registrar of MMCIM relied upon by the petitioner was inconsistent with the material on record. Further the genuineness of the certificate obtained by the petitioner from the particular institute can be decided only after evidence. In it's opinion, when conflicting documents are produced from very institute supporting prosecution as well as the petitioner, the same cannot be considered at the preliminary stage particularly when the allegations are of cheating and forgery.

5. In the opinion of this Court, there can be no interference with the orders impugned in the petition. The material brought on record is prima facie sufficient to proceed against the petitioner. Secondly the facts alleged are so serious that an opportunity of proving them in evidence must be given to the prosecution. From the certificate used by the petitioner there is no way of knowing the name of the college attended by him for securing the degree in Ayurved Medicine, the year in which he was admitted to the course and the year in which he completed the course etc. Hence, the petition is dismissed.

[Smt. R. P. SondurBaldota, J.]