

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(CR) No. 349 of 2016

Afroj Malik Khunte, S/o. Shri Govind Ram Khunte, Aged About 26 Years, Pharmaist Grade-2, Community Health Centre, Duldula (Posted in Primary Health Centre-Kastura), Tahsil- Duldula, District- Jashpur, Civil & Revenue District- Jashpur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary Home (Police) Department, Mahanadi Bhavan, Mantralay, New Raipur, District- Raipur, Chhattisgarh.
2. The Director General Of Police, Police Department, New Raipur, District- Raipur, Chhattisgarh.
3. Chief Medical & Health Officer, Jashpur, District Jashpur, Chhattisgarh.
4. The Station House Officer, Police Station- Jashpur, District- Jashpur, Chhattisgarh.
5. Collector, Jashpur, District- Jashpur, Chhattisgarh.
6. Tahsildar, Duldula, District- Jashpur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. M.K.Sinha, Advocate
For State	:	Mr. S.K.Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27.02.2018

Heard

1. The instant petition is to quash the FIR No.35/2016 registered at Police Station- Kotwali Jashpur against the petitioner for the offence under Sections 420, 468, 471/34 of I.P.C. The FIR purports that the petitioner though was permanent resident of District Janjgir-Champa, he had obtained service at Jashpur on the basis of forged resident certificate to the post of Pharmacist Grade-II. The FIR was lodged in respect of the different persons and in respect of the petitioner, it was alleged that at the time of registration at Chhattisgarh Pharmacy Council, he had filed a resident certificate of Janjgir-Champa and at the time of making application at Jashpur, the resident certificate of Jashpur was filed.

2. Learned counsel for the petitioner would submit that pursuant to the advertisement dated 08.06.2012 filed as Annexure P-11 for the post of Pharmacist Grade-II, an application was filed on the basis of the resident certificate Annexure P-10 issued on 24.10.2011. Thereafter, the petitioner was selected and after his selection false complaint made was. He submits that initially at one point of time, the parents of petitioner were residing at Janjgir-Champa, at that time, the resident certificate was issued to him but the same was not filed at the time of advertisement and the advertisement was made on 08.06.2012 whereas the resident certificate was obtained much prior to that date i.e. 24.10.2011 which would show the mens rea of the petitioner as there was no intention to commit any fraud and forgery. He further submits that an enquiry was also conducted by the department and when an enquiry was made, the Tahsildar after due enquiry found it that the resident certificate was issued to the petitioner, which would be evident from Annexure P-2. He therefore submits that no fraud has been committed by the petitioner and the advertisement also do not calls upon the fact that application for employment was restricted to only particular class of people, only it says about some preferences.
3. Learned State counsel contended that the petitioner had obtained the domicile certificate on 17.08.2005 from the Tahsildar- Dabhra, District Janjgir-Champa whereas domicile certificate was again obtained on 24.10.2011 from the Tahsildar- Duldula, District Jashpur, showing himself to be the resident of District Jashpur. Therefore, the forged certificate was issued.
4. Perused the documents. Perusal of the advertisement would show that it was on 08.06.2012 inviting application for employment for

the post of Pharmacist Grade-II at District Jashpur and the domicile certificate issued is dated 24.10.2011, therefore, inference can be drawn that before the advertisement was issued in the year 2012 the petitioner was already in possession of domicile certificate which would show the *mens rea* of the petitioner. Furthermore, another certificate which is alleged to be issued at District Janjgir-Champa is of 17.08.2005 which reflects that the same was issued on the basis of the fact that he had passed 5th Class from the School Bartunga whereas the domicile certificate issued at Jashpur shows that it was issued on the basis of the fact that he had passed his 8th Class from the School Devarghata. Further, the documents which is placed on record shows that the domicile certificate which was issued on 24.10.2011 was subject of scrutiny by the department and the Collector Jashpur. The Tahsildar, after enquiry, found that the said certificate was validly issued, which is evident from Annexure P-2 dated 28.04.2014. Pursuant thereto, the recommendation was made by the Chief Medical & Health Officer Jashpur since the domicile certificate issued at Jashpur was found to be correct, no further action was contemplated against the petitioner.

5. Considering the documents, it appears that simply because of the fact that one domicile certificate was earlier held by the petitioner of District Janjgir-Champa, another domicile certificate was placed at the time of employment in the year 2012, the FIR has been made. Reading the document together and the fact that the domicile certificate was subsequently issued was found to be correct and was prior to the advertisement dated 08.06.2012, I do not find any act of criminal intention committed by the petitioner. In

view of this, the FIR No.35/2016 registered at Police Station-Kotwali, Jashpur, for the offence under Section 420, 468, 471/34 of I.P.C. in respect of the petitioner stands quashed.

6. In the result, the petition is allowed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok