

H.S.C. Examination from Sir Parashurambhau College, Pune. The online results were declared on 30th May, 2013 where he has obtained 431 marks out of 600. He received marksheet in the college on 6th June, 2013 disclosing his marks as 575 out of 600. On 9th June, 2013, the news of the petitioner obtaining 575 marks out of 600, i.e., securing nearly 95% of the marks, was published in the daily newspaper, namely, "Sakal". Thereafter he was called in the college and the Principal of the College made enquiry with him and in the matter and found that there was difference in the marks which he was having. The Principal found that the marksheet which was with the petitioner wherein he got 575 marks out of 600 is fabricated and forged document. Thereafter the Principal gave an FIR on 9th June, 2013. The charge sheet was filed in the month of February, 2014 under sections 420, 468 and 471 of the Indian Penal Code.

4 The learned senior counsel appearing for the petitioner has submitted that in the statements recorded by the police, there is no evidence to show that the petitioner/accused has committed forgery. There is no evidence to show that how and from where the petitioner/accused has allegedly fabricated the said marksheet.

He relied on the statements of Ashwini, Sanjay and Sagar Pingle and pointed out that the statements do not reveal either forgery or cheating. The learned senior counsel has further submitted that the petitioner/accused appeared for Engineering CET exam on 14th June, 2013 and at that time, he submitted his marksheet securing 431 out of 600, which he obtained when the results were declared online. Thus, he did not use the marksheet issued by Higher Secondary Board showing his marks as 575 out of 600. Thus, there is no use of alleged forged marksheet by the petitioner/accused for any wrongful gain and there is no wrongful loss caused to anybody, as no property is involved as contemplated under section 420 of Indian Penal Code. He has relied on the statement of father of the petitioner, wherein the father has also mentioned about the difference in two marksheets, however, he confirmed that the alleged forged marksheet was issued to him by the Higher Secondary Board and he received it from the College. The learned senior counsel submitted that even though material is placed in the chargesheet against the petitioner, is taken into account, still no case is made out under sections 420, 468 and 471 of Indian Penal Code.

5. Per contra, the learned APP while opposing the Petition, has supported the order passed by the Judicial Magistrate First Class rejecting the Application for discharge. He has relied on the report of the Enquiry Officer dated 15th June, 2013 which is part of the charge sheet and has specifically pointed out the difference in the original marksheet and forged marksheet. He submitted that the petitioner/accused did not approach of his own either to the Principal or the school authorities pointing out the difference in his marks which was published online and in the marksheet issued by the Board. Learned APP has submitted that the petitioner was called by the Principal on 9th June, 2013, i.e., three days after his result was out. The petitioner has contacted the press and got the news about his success published. He used the marksheet for his own benefit. He has submitted that he is beneficiary by this act and hence, Petition is to be dismissed.

6. Perused the record especially the statements of the witnesses so also the report submitted by S.P. College to Inquiry officer of Higher Secondary Board dated 15th June, 2013. There is evidence of use of marksheet for publication, as the news has in fact appeared in daily newspaper, namely, "Sakal". Though there

is weak evidence about the forgery and cheating, so whether the offence of forgery under section 468 and the offence of cheating under section 420 by the accused is made out, is required to be gone into at the time of evidence. The material on record shows that there is forged document, however, the petitioner/accused though is a beneficiary, has committed forgery or not is required to be ascertained at the time of trial. It appears that the Investigating Agency has half heartedly collected evidence at this stage. However, even if there is grave suspicion, then application of discharge cannot be entertained.

7. It is an unfortunate case where a young boy, who has completed 18 years of age is involved and therefore, this matter is to be taken for hearing at the earliest and it is to be expedited and concluded preferably within six months from today.

8. Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)