

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR No.2129 of 2019 (O&M)
Date of Decision: 07.02.2020**

**Dinesh Kumar Divedi and another
.....Petitioners**

Vs

**State of U.T., Chandigarh
....Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Akashdeep Miglani, Advocate
for the petitioners.

Mr. Rajiv Sharma, Addl. P.P. UT, Chandigarh.

RAJ MOHAN SINGH, J.

[1]. Petitioners have assailed the order dated 02.07.2019 passed by the Addl. Sessions Judge, Chandigarh vide which the application under Section 227 Cr.P.C. moved by the petitioners was dismissed and charges were framed under Section 120-B, 420, 467, 471 read with Section 120-B IPC and Section 13(1) (d) and Section 13(2) of the Prevention of Corruption Act.

[2]. A complaint was filed against one Ashok Kumar in the context of genuineness of his degree in law obtained from Lucknow University (U.P). The inquiry was conducted by the Vigilance Department, Chandigarh. Certificates of LLB of

aforesaid Ashok Kumar were verified from University of Lucknow (U.P). Controller of Examination, University of Lucknow has reported as per record of the University, the alleged Roll No.FBP/63240 for the course of LLB was not allotted to Ashok Kumar son of R. Chander in the year 1996, 1997 and 1998. The certificates of LLB obtained by Ashok Kumar son of R. Chander against Roll No.FBP/63240 for the year 1996, 1997 and 1998 were found to be forged. A case was registered under Sections 420, 467, 468, 471 IPC.

[3]. Learned counsel for the petitioner submitted that the petitioners are Clerks in the Lucknow University. They were involved in checking of the certificates. The certificates were issued by Sanjay Kumar, Deputy Registrar. The said Sanjay Kumar has not been arrayed as an accused.

[4]. Learned counsel further submitted that the petitioners fall into the ambit of public servant as per Section 2(c) of the Prevention of Corruption Act. Petitioners have assailed the order primarily on the ground that the petitioners being public servant could not be prosecuted for want of prior sanction by the competent authority. Charges could not be framed against the petitioners, who are public servant and are still in service, therefore, sanction is required to be taken at the stage when the Court applies its mind for taking cognizance of the issue.

[5]. Learned counsel further submitted that only allegation against them in the supplementary challan is that they were checkers at the time of issuance of LLB certificates and the signatories of the aforesaid certificates has not been arrayed as an accused. Petitioners are lower grade clerks. They just tabulated the marks from the tabulation charts prepared by upper grade clerks. The tabulation charts were prepared by upper grade clerks, who have not been arrayed as an accused in this case. On the aforesaid broad features, the petitioners sought discharge in terms of Section 227 Cr.P.C.

[6]. Per contra, learned State counsel submitted that the tabulation charts were prepared by the upper grade clerks, but perusal of the tabulation chart of 2004 would show that the same was changed in the year 2011-2013. In the tabulation chart of 2004, father's name of Ashok Kumar was shown as M. Chandra, whereas in the tabulation chart of 2011-2013, it was changed to R. Chander. On the basis of mark sheet, tabulation chart of 2011-2013 was changed. Duplicate mark sheets were prepared on 18.10.2004. Mark sheets were prepared on the basis of 2004 record by forging the name of M.Chandra to R. Chander.

[7]. I have considered the submissions made by learned counsel for the parties and have gone through the material

available on record.

[8]. The present case is distinct than CRM-M No.36081 of 2019. It is a settled principle of law that charge can be framed even on strong suspicion. The issue regarding ambit of public servant and absence of prior sanction would be debatable in view of the fact that the requirement of sanction would be seen in the context whether services of the accused are terminable by the Government or not.

[9]. Perusal of the aforesaid material on record would show that the father's name of Ashok Kumar was changed in both the tabulations. Mark sheets were prepared on the basis of tabulation of 2004 by forging the name of M. Chandra to R. Chander. All these things would require proper trial to be conducted on the basis of incriminating material collected by the prosecution.

[10]. In view of above, I do not find any ground to interfere in the present petition. The same is accordingly dismissed.

February 07, 2020

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No