

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Application (APL) No. 651 of 2021

Mukta Pandurang Dakhore Vs. State of Maharashtra through Police Station Officer, Buldana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M.P. Kariya, Advocate for the applicant
Mr. A.R. Chutke, APP for the respondent

CORAM : MANISH PITALE, J.

DATED : AUGUST 23, 2021

By this application, the applicant (respondent No.4) has approached this Court, challenging concurrent orders passed by the Magistrate and the Sessions Court, rejecting her discharge application.

2. In the present case, a sting operation was conducted, wherein it was found that Medical Board of General Hospital at Buldhana, had issued false and fabricated disability certificate in the name of one person. On the basis of the said material, FIR dated 20/01/2011, was registered at Police Station Buldhana, against the applicant and four other accused persons, for offences under Sections 420, 468, 471 read with 34 of the Indian Penal Code. In the FIR, it was generally stated that the Doctors and other employees of the said Hospital were the accused persons. It appears that during the course of

the investigation, the role of the five accused persons was ascertained and accordingly, chargesheet was filed against all of them.

3. Accused No.1 to 3 were the Doctors, who had allegedly issued such false and fabricated disability certificates, while the applicant, arrayed as accused No.4, was shown as a Clerk, working in the office of the said Hospital, who had made outward entries and handed over the said certificates. It is an admitted position that the accused No.1 to 3 i.e. the said Doctors have been discharged by the Court of Magistrate itself. The prayer of the applicant for discharge was rejected by the Magistrate by the impugned order dated 03/12/2018, observing that it was the duty of the applicant as the Clerk to verify the documents before making entries and handing over such documents.

4. Aggrieved by the said order, the applicant had filed a revision application before the Sessions Court. The same was rejected by observing that even though the applicant claimed that she was working as carpenter, the record demonstrated that she was performing the duty of Clerk and that, therefore, it was her responsibility to verify the documents before making entries and handing them over. On this basis, the revision application was dismissed and the rejection of the discharge application was confirmed.

5. Aggrieved by the same, the applicant approached this Court, wherein notice was issued on 15/07/2021 and interim relief was granted in favour of the applicant.

6. Mr. M.P. Kariya, learned counsel appearing for the applicant submits that there is material on record to show that the applicant was appointed as a carpenter. Due to the pressure of work in the office of said Hospital, the applicant was directed to help in the work of the said Hospital, as a result of which, she was required to make entries in the outward register and to handover documents, including the said disability certificate. It was submitted that the Courts below had erred in holding that there was *prima facie* case against the applicant, only for the reason that she had made the outward entries in the register and that she has handed over the document i.e. disability certificate. It was submitted that when the Doctors i.e. the accused No.1 to 3, who had issued such alleged false and fabricated disability certificates were discharged, there was no reason for rejecting the prayer made on behalf of the applicant.

7. Mr. A.R. Chutke, learned APP handed over reply on behalf of the respondent - State, which is taken on record. In paragraph No.9, it is stated that

the applicant was initially appointed as carpenter and that she had been working in the Medical Department for making entries in the outward register and factually the nature of work being performed was that of a Clerk. It is reiterated that the applicant ought to have verified the documents and the identity of the persons to whom the certificates were issued. The learned APP fairly took this Court through the contents of the chargesheet, wherein reference was made to the role of the applicant.

8. Heard the learned counsel for the rival parties and perused the material on record. This Court has perused the documents filed along with the chargesheet. There is a statement of one Sudhakar Laxman Ingole, working as a Clerk in the said Hospital. A perusal of the statement of the said witness recorded during the course of investigation, would show that due to pressure of work, the applicant was requested to perform duties in the Medical Department of the said Hospital for making entries of outward numbers and for handing over documents. It is specifically stated that after the Civil Surgeon issued certificates, the said witness used to affix the seal and then she used to hand over the documents to the applicant for making an entry and then to handover the certificate to the concerned person. The relevant entries of the outward register

are also filed along with the chargesheet.

9. The material on record does indicate that although the applicant was appointed as a carpenter, due to the pressure of work, she was asked to perform the duty of making entries in the outward register and handing over documents. Even if that be so, as a carpenter asked to work in the Medical Department of the Hospital to make certain entries in the register and then to handover documents, would not *ipso facto* mean that the applicant was duty bound to verify the contents of the documents, including the said alleged false and fabricated disability certificates before making the outward entry and handing over the said certificates. The role of the applicant attributed on the basis of the documents collected during investigation, cannot be said to be raising grave suspicion about her involvement in either creation of alleged false and fabricated documents or handing them over to the persons who were not entitled to such certificates.

10. This is particularly significant in the backdrop of the admitted position that the Doctors i.e. accused No.1 to 3, who were alleged to have authored false and fabricated disability certificates were themselves discharged by the Magistrate. The role of the applicant, even if it is to be accepted on the basis of chargesheet and accompanying

documents, is minuscule and insignificant, insofar as the alleged offences are concerned.

11. The Court of the Magistrate and Sessions Court both erred in fastening the responsibility on the applicant for verifying the contents of the documents and the identity of the persons, while making outward entries and handing over the disability certificates. This is more so in the backdrop of the admitted fact that the applicant was appointed as a carpenter and she was asked to perform the aforesaid duty in the Medical Department of the said Hospital, only due to work pressure. Hence, this Court is of the opinion that the material on record, even if it is to be accepted, does not raise suspicion, much less grave suspicion against the applicant. Therefore, she deserves to be discharged.

12. In view of the above, the application is allowed.

13. The impugned orders passed by the Court of the Magistrate and Sessions Court are quashed and set aside. Consequently, the application for discharge (Exh.45) filed by the applicant stands allowed in terms of prayers made therein.

JUDGE