

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10013 of 2022**

Arising Out of PS. Case No.-46 Year-2015 Thana- MAGADH UNIVERSITY District- Gaya

Param Pal Singh Gandhi @ Param Pal Singh, aged about 51 years, Male, son of Shri Kirpal Singh Gandhi, resident of House No. 2211, Sector 21 C, P.S.- Sector 19, District- Chandigarh

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate Mr. Rajeev Ranjan, Advocate
For the State	:	Mr. Anjani Kumar, AAG 4 with Mr. Md. Nadim Seraj, GP 5
For the Informant	:	Mr. Md. Iqbal Asif Niazi, AC to GP 5 Mr. Suresh Prasad Singh No.1, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
ORAL JUDGMENT**

Date : 24-08-2022

The matter pertains to a degree issued to an Officer of Punjab, namely, Parampal Singh Gandhi @ Param Pal Singh by Magadh University, Bodhgaya (Bihar).

2. An FIR i.e., Magadh University PS Case No. 46 of 2015 was registered alleging that the petitioner possessed a fake degree. In detailed FIR, various allegations against the petitioner and other co-accused were levelled. At the stage of framing charge, it appears that petitioner moved an application for discharge from the case. His grounds are laid out in the order of the Additional Chief Judicial Magistrate, IX, Gaya, in detail. A perusal of the charges and materials on record as also the law



pertaining to framing of charge, the trial Court came to the following conclusion:-

“The charges proposed are cheating, forgery, using forged document and conspiracy. For cheating dishonest or fraudulent inducement to somebody is essential. Forgery presupposes creation of false documents and for conspiracy agreement between the two or more persons is necessary. Here, it is not shown when and where any person was deceived and dishonestly induced to do or omit to do something. In whole of the police report apart from the letters and communications there are documents such as degree, marks-sheet, tabulation register. As per the definition of false documents given u/s 464 of I.P.C. degree and marks-sheet are not under the category as it is not alleged that anybody dishonestly or fraudulently signed this or that there were any alterations made in it. There is overwriting and manipulation in Tabulation Register and it can be covered by thirdly of Sec. 464 but the involvement of the petitioner is nowhere seen in the whole police report, only suspicion has been cast that too when the manipulation is detrimental to the interest of the petitioner. Similarly nowhere in the police report there is anything except suspicion that the petitioner met or entered in any agreement with anybody



for doing an illegal act. It is true that at this stage the Court is not required to evaluate the evidences and arrive at a conclusion that materials are sufficient for conviction. But if it is shown that whatever evidence the prosecution proposes to prove the guilt of the accused, even if fully accepted before it is challenged by cross-examination or rebutted by defence evidence, if any, can not show that the accused committed the particular offence, there would be no ground for proceedings with the trial. On the basis of above discussion made in the light of the order dated 28.10.2016 of Hon'ble High Court in Cr. WJC No. 993 of 2016 it seems that even if all the materials proposed by the prosecution is accepted as true it can not definitely show that a particular offence has been committed by the accused. Hence, accused-petitioner Parampal Singh Gandhi is discharged from this case. Put up on 16.3.17 for charge of remaining accused."

3. Thus the Court discharged the petitioner from the case.

4. State challenges this order by way of a revision petition before the Additional Sessions Judge- X, Gaya. It was *inter alia* contended before the said Court that the Magistrate had gone into appraisal of evidence which was not called for at



the initial stage. It was also stated that the entire case was initiated due to anonymous applications received in the year 1998 in the office of ADGP, Internal Vigilance in which it was alleged that petitioner was appointed on the basis of fake and forged degree of B.A.

5. As per record, an Officer of the Punjab Police was entrusted with the enquiry to visit the Magadh University and submitted his report holding that the certificate held by the petitioner was suspicious and, thus, recommended that the FIR should be registered. However, the enquiry was closed by the Senior Superintendent of Police, Ropar, who reported that he had received information from the Magadh University that the certificate issued was correct and there was no need or reason to proceed further with the investigation. Besides, name of the petitioner appeared in the tabulation register as well. Suspicion only arose because of certain confusion about the numbering in the said register. Before the revisional Court, detail arguments were addressed. It reiterated that the stage of consideration of charge, evidence could not be appreciated. According to him, if the Judge considered that there is no sufficient ground of proceedings against the accused, he shall discharge the accused and record his reason for so doing. While allowing the criminal



revision, it opined that there was no *prima facie* case made out for discharge of the accused before the stage of trial. The petitioner has to stand trial on merits in light of the documents and contents of the charge-sheet filed pursuant to the order of the Court. The order passed by the Magistrate was, thus, set aside.

6. It is pertinent to mention here that the trial Court probably dealt with the discharge application in detail in view of the order dated 04.08.2016 passed by the High Court in Cr. Misc. No.11343 of 2016. The said order is reproduced below:-

“Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the informant.

After some argument, learned counsel for the petitioner wants to withdraw this application with a liberty to raise all the points at the time of framing of the charge as the petitioner has already filed a discharge petition.

Permission, as prayed for, is granted. This application is dismissed as withdrawn. However, the trial Court is directed to decide the discharge petition without being influenced by the order passed by this Court.”

7. During the arguments before this Court, a query was put to Mr. Anjani Kumar, AAG 4, representing the State



submits that in case it was a case of forgery of degree, the same could not have been issued without connivance of employee of the Magadh University. Counsel, however, informs that there was an employee, who was initially named in the FIR but he was not charge-sheeted by the Police. On a query being put to him why the State did not challenge this action of the Police, no clear answer was forthcoming. Besides, it appears that lot of litigation happened in Punjab and Haryana High Court where the cases were decided in favour of the petitioner. The Principal Secretary, Home Department, Punjab, passed a comprehensive order which reads as under:-

“Considering all the facts, it is all clear that the matter once enquired into and finalised cannot be enquired into again and again. But this matter after 1991 was repeatedly re-enquired into, a number of times which is against the decision of the Hon’ble Supreme Court of India. Therefore, this matter is closed for ever and the certificate submitted by Sh. Parampal Singh are found to be correct and genuine. Therefore, the order issued by the Punjab Government vide Endst. No.6/52/09-5G3 dated 22.07.2011 are cancelled. He is reinstated on permanent basis.”

8. The aforesaid order finds mention at various places



in the record of the paper-book. However, the matter has been lingering on for several years. A thorough perusal of the discharge order shows that it is neither perverse nor suffers from jurisdictional error. It is clear from the record that FIR was registered on the basis of some suspicion. There is no explanation forthcoming for exonerating the employee without whose connivance, forgery of certificate/degree could not have taken place. A perusal of the discharge order shows that the Magistrate based his order on the materials and documents on record forming part of the case diary. He did not traverse beyond that. It may not be out of place to mention here that the petitioner filed Criminal Writ Petition No. 993 of 2016 before the High Court making a direct challenge to the order passed by the Additional Chief Judicial Magistrate-IX, Gaya, whereby his prayer for discharge in the aforementioned case has been refused. The Court dealt with the matter at length and in the end held as follows:-

“27. Because of what have been discussed and pointed out above, this writ petition partly succeeds. The impugned order, dated 24.09.2016, passed the learned Additional Chief Judicial Magistrate-IX, Gaya, in connection with Magadh University P.S. Case No.46 /2015(G. R. Case No. 3743 of 2015), is



hereby set aside and the case is remanded to the learned trial Court for hearing the parties afresh and pass necessary orders as regards framing of charges against the accused-petitioner or as regards discharge of the accused-petitioner in the light of the observations made in the preceding paragraphs of this order.”

9. It is probably for the aforesaid reason that the Magistrate dealt with each and every issue in detail and gave findings as well. Otherwise, it was a simple issue of just a discharge application and framing of charge. The order of the revisional Court, on the other hand, shows that it has merely referred to the law already laid-down that Court is not a mouthpiece of prosecution or post office but is required to sift the evidence collectively during investigation. There can be no dispute with the legal proposition but there are cases where discharge applications have been allowed. It is for this purpose Section 227 is incorporated in the Code of Criminal Procedure, 1973. Section 227 of the Code of Criminal Procedure, 1973, is reproduced hereunder for ready reference:-

“227. Discharge.---*If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the*



prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”

10. In the case as the instant one, where even a senior officer of the Punjab Police opined that there was some suspicion regarding the certificate and thus, FIR should be registered. Even this contention was rejected by the Punjab Police authorities themselves. No doubt, discharge is normally exception but here is a case where the Court came to the conclusion that the entire material collected during investigation was not sufficient to raise such a suspicion to put the petitioner to trial. Besides, in the litigation which ensued in the Punjab and Haryana High Court, the petitioner succeeded. However, present FIR was lodged on 24.07.2015 by one Anil Kumar Bhanot alleging that the degree of the petitioner was forged in the year 1991. It is surprising that FIR was lodged after a lapse of almost 24 years. Besides, nobody appears to have ever pursued the case against co-accused i.e., the employee, namely, Md. Syed Obadullah, Assistant Legal Section, Magadh University, who allegedly helped the petitioner in forging the degree and also other accused i.e., Arun Kumar, Vice Chancellor of Magadh University.



11. Under the circumstances, I am of the considered view that the matter need not be allowed to linger any further and needs to be given quietus.

12. The quashing application is, thus, allowed qua the petitioner, who should be discharged from the proceedings forthwith.

(Rajan Gupta, J)

Parmanand/-

AFR/NAFR	AFR
CAV DATE	03.08.2022
Uploading Date	26.08.2022
Transmission Date	26.08.2022

