



2024:DHC:8473



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 29th OCTOBER, 2024

IN THE MATTER OF:

+ **CRL.M.C. 183/2022**

STATE

.....Petitioner

Through: Mr. Aman Usman, APP for the State.

versus

NAVEEN KUMAR DHOULPURIA

.....Respondent

Through: Mr. K.K. Manan, Sr. Advocate along
with Ms. Udit Bali, Mr. Karmanya
Singh Choudhary, Mr. Lavish
Chandra, Mr. Ritik, Advocates.
SI Talib Khan, PS Lodhi Colony

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner/State has approached this Court challenging an Order dated 05.12.2020 passed by the learned Additional Sessions Judge setting aside an Order dated 31.08.2019 passed by the learned Metropolitan Magistrate directing to frame charges under Section 419, 420, 468, 471 & 120B IPC and thereby discharging the Petitioner for offences under Section 419, 420, 468, 471 & 120B IPC.
2. Material on record indicates that during the PMT Exam held on 15.05.2011 at Air Force Bal Bharti School, Lodhi Road, New Delhi, the Invigilators observed that the appearance of a candidate, namely, Naveen Kumar Dhoulpuria bearing Roll No. 5704294 appearing for the paper did not match with the photograph on admit card and attendance sheet. It is stated that one Kumar Gaurav was found appearing on behalf of the



2024:DHC:8473



Respondent herein and the said Kumar Gaurav was apprehended and was handed over to Police. On the said information, FIR being FIR No.70/2011 dated 15.05.2011 was registered at Police Station Lodhi Colony for offences under Section 419, 420, 468, 471 IPC.

3. After registration of the FIR, investigation was conducted. The specimen signatures of both the accused were obtained and were sent to the FSL. After investigation, chargesheet has been filed against both the accused persons, i.e., Respondent No.1 herein and Kumar Gaurav for offences under Section 419, 420, 468, 471 & 120B IPC. *Vide* Order dated 31.08.2019 passed by the learned Metropolitan Magistrate, charges have been framed against both the accused under Section 419, 420, 468, 471 & 120B IPC.

4. The said order was challenged by the Respondent herein by filing a revision petition being Criminal Revision No.725/2019 before the learned Additional Sessions Judge and the learned Additional Sessions Judge by the order impugned herein has allowed the revision petition discharging the Respondent herein.

5. The learned Additional Sessions Judge was of the opinion that one of the documents handed over to the SHO, Police Station Lodhi Colony is the web admit card of the AIPMT final examination. The learned Additional Sessions Judge was of the opinion that the web admit card could have been downloaded by the accused Kumar Gaurav without the knowledge of the Petitioner and therefore there was no meeting of mind between the Respondent and accused Kumar Gaurav. The specimen writing and signature of accused Kumar Gaurav along with the writing and signatures on the attendance sheet, application form and two answer sheets were sent to the FSL for comparison and examination and therefore the Respondent



2024:DHC:8473



herein cannot be accused of the offence of forgery. Resultantly, the learned Additional Sessions Judge set aside the order framing charges against the Respondent for offences under Section 419, 420, 468, 471 & 120B IPC.

6. Learned APP for the Petitioner/State strenuously contends that the web admit card could have been downloaded only with a password and the password is only with the Respondent herein and accused Kumar Gaurav could not have obtained the web admit card without obtaining the password. He further states that the only beneficiary of Kumar Gaurav appearing in the examination could be the Respondent herein and whether there was meeting of the mind or not is a matter of trial. He therefore contends that the Order dated 05.12.2020 passed by the learned Additional Sessions Judge must be set aside.

7. *Per contra*, learned Senior Counsel for the Respondent, contends that there is no evidence to show any meeting of mind between accused Kumar Gaurav and the Respondent herein. The Respondent was not caught on the site and the original admit card was not recovered and only web admit card was recovered. He states that the order which has been passed by the learned Additional Sessions Judge is primarily on the ground that anybody could have downloaded the web admit card does not require any interference.

8. Heard learned Counsel for the parties and perused the material on record.

9. This Court has gone through Section 161 CrPC statements of the Invigilators and Section 161 CrPC statements of the witnesses. Material on record indicates that the Invigilators had a doubt on the identity of Kumar Gaurav who was impersonating as Respondent as his photograph did not match with the original photograph. In fact, the statement under Section 161



2024:DHC:8473



CrPC of Ms. Vidhu Dutta, who was Invigilating in the school has stated that when accused Kumar Gaurav was confronted that his photograph was not matching with the photographs in the attendance sheet, he stated that his father is a dentist and he has changed dentures and therefore his photograph was not matching. Since the Invigilators were not satisfied, they informed the officials and called the Police. Respondent herein was a candidate who was supposed to take the examination, was not there in the centre and somebody else was impersonating for him and was taking examination on his behalf and if somebody else would be appearing on behalf of the Respondent, the ultimate beneficiary would have been the Respondent himself. The fact that somebody else has been found impersonating the Respondent is sufficient to frame charges against the Respondent. It cannot be said that there is no material at all to proceed ahead against the Respondent herein.

10. It is settled law that at the stage of revision, the court has to merely sift evidence to find out as to whether there is sufficient ground against the accused and whether the material before the court discloses that there are suspicious circumstances against the accused so as to frame charges against him. The Apex Court in State v. M R Hiremath, **2019 (7) SCC 515**, has observed as under:-

“25. The High Court ought to have been cognizant of the fact that the trial court was dealing with an application for discharge under the provisions of Section 239 CrPC. The parameters which govern the exercise of this jurisdiction have found expression in several decisions of this Court. It is a settled principle of law that at the stage of considering an application for discharge the court must proceed on the



assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary to constitute the offence. In State of T.N. v. N. Suresh Rajan [State of T.N. v. N. Suresh Rajan, (2014) 11 SCC 709 : (2014) 3 SCC (Cri) 529 : (2014) 2 SCC (L&S) 721] , adverting to the earlier decisions on the subject, this Court held : (SCC pp. 721-22, para 29)

“29. ... At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.”

11. The Apex Court in State of Tamil Nadu v. N. Suresh Rajan & Ors., **2014 (11) SCC 709**, has observed as under:-

“29. We have bestowed our consideration to the rival submissions and the submissions made by Mr Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is



trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.”

12. In the opinion of this Court, since somebody else has been found sitting in the examination centre having a web downloaded admit card of the Respondent herein is sufficient to proceed ahead for offences under Section 419, 420, 468, 471 & 120B IPC.

13. As correctly pointed out by the learned APP for the State that the web admit card as produced could not have been downloaded by the accused Kumar Gaurav without relevant material being furnished to him and as to whether there was a meeting of mind etc. between the Respondent and accused Kumar Gaurav are all to be seen in the trial.

14. In view of the above, this Court is inclined to set aside the Order dated 05.12.2020 passed by the learned Additional Sessions Judge by which



2024:DHC:8473



the Respondent has been discharged for offences under Section 419, 420, 468, 471 & 120B IPC.

15. With these observations, the petition is allowed. Pending application(s), if any, stand disposed of.

SUBRAMONIUM PRASAD, J

OCTOBER 29, 2024
hsk