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

CRIMINAL WRIT PETITION NO.971 OF 2024

Prafulla Dinkar Sarnaik,
Aged about 38 years,
Occupation : Service,
R/o.Mohaja Road, Washim,
Taluka and District – Washim,
Presently R/o. Jalam Road,
Vinayak Nagar, Taluka Khamgaon,
District Buldhana.

.... PETITIONER

// VERSUS //

The State of Maharashtra,
Through Police Station Officer,
Police Station, Kotwali Nagpur.
District Nagpur.

.... RESPONDENT

Mr. R. N. Ghuge, Counsel for petitioner.
Ms. Ritu Sharma, APP for respondent /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09.01.2025

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith.
2. Heard finally with the consent of learned Counsel appearing for the parties.
3. By this writ petition, the petitioner has challenged the order passed by the learned Judicial Magistrate First Class, Court

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No.8, Nagpur dated 19.12.2018 and the order passed by the learned Additional Sessions Judge, Nagpur in Criminal Revision Application No.209/2019 dismissing the revision application which is filed against the order of the learned Magistrate.

4. The facts in short are as under:

The Principal of Sonekar College of Education (D.Ed.), Siraspeth, Nagpur lodged a report against the present petitioner on the ground that he had submitted false fabricated disability certificate for taking admission in that college. Accordingly, the crime was registered vide Crime No.141/2005 under Sections 420, 468 and 471 of the Indian Penal Code. The allegation against the accused/petitioner is of commission of offence of cheating by filing a forged disability certificate to obtain admission for D.Ed. The record shows that at the time of filing of the charge-sheet, the accused was absconding and he was arrested in the year 2016. It is further revealed during the investigation that he has approached one Prashant @ Ajay Vijayrao Chaudhari and who has procured the said disability certificate for him. Subsequently, that certificate was found to be a forged certificate and therefore, the crime was registered.

5. Heard learned Counsel Mr. Ghuge for the petitioner who submitted that as far as the present petitioner is concerned, he was not aware that the certificate is forged. It was prepared

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or procured by Prashant Chaudhari and other co-accused and the present petitioner has already initiated the action against him. As far as the present petitioner is concerned, the offence under Sections 420 or 471 of the Indian Penal Code is not attracted against him, in view of that, he filed the discharge application. But the learned Magistrate has not considered the discharge application and rejected the same. Against the said order, the present petitioner has preferred the revision. The Revisional Court has also not considered that the petitioner was not having knowledge about the forgery of the document. The Revisional Court has considered the ingredients of Sections 463 and 464 and also came to the conclusion that the material on record is sufficient to frame the charge against him and thereby dismissed the revision. He submitted that the conjoint reading of Sections 420, 467 and 468 which is not attracted against the present petitioner as he is not the author of the document and therefore, there is no material to frame the charge against the present petitioner. In view of that, the order passed by the Revisional Court as well as the order passed by the Magistrate deserves to be quashed and set aside.

6. After hearing both the sides and on perusal of the entire charge-sheet, it reveals that the allegation against the present petitioner is on the basis of report lodged by the

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Principal of Sonekar College of Education (D.Ed.), Siraspeth, Nagpur. During the investigation, it revealed that present petitioner approached to the other co-accused for obtaining the disability certificate. The co-accused has procured the said disability certificate and handed over to the present petitioner and the petitioner has used it while taking the admission. The law is settled as far as the framing of the charge is concerned. The Hon'ble Apex Court has laid down the guidelines in the case of **Sajjan Kumar Vs. Central Bureau of Investigation** reported in **2011 Cri. L.J. 1169** wherein it is held that while considering the question of framing of the charge under Section 227 of the Cr.P.C. the Magistrate has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case. Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the trial. The Court cannot act merely as a Post Office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities etc. However, at this stage, there cannot be a roving enquiry into the pros and

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cons of the matter and weigh the evidence as if he was conducting a trial.

7. Thus, if on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence but that is not the requirement at the time of framing of the charge. At the time of framing of the charge Court has to see only whether there is sufficient material to frame the charge. Even a strong suspicion is sufficient to frame the charge. At this stage, the investigation papers shows the involvement of the present petitioner in the alleged offence, therefore, I do not find any merit in the petition and the petition deserves to be dismissed. Accordingly, the petition is dismissed.

8. The observations are *prima facie* in nature and the trial Court shall not be influenced by the same.

Rule is discharged.

(URMILA JOSHI-PHALKE, J.)