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

+ **CRL.M.C. 81/2025 & CRL.M.A. 422/2025, CRL.M.A. 423/2025**

MAHATMA MAHTO

.....Petitioner

Through: Mr. Ashish Aggarwal and Mr.
Himanshu Singh, Advocates.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP with SI
Manmeet Yadav, PS: Connaught
Place.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

10.01.2025

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1. The present petition under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 is directed against the order dated 16th November, 2024 passed by Additional Sessions Judge, Special Fast Track Court, Patiala House Courts, New Delhi in Revision Petition No. 33/2024 titled '*Mahatma Mehto v. The State (GNCT of Delhi)*'.

2. The factual background leading to the filing of the present petition is as follows:

2.1 FIR No. 128/ 2014 dated 13th March, 2014 under Sections 420/468/471 of the Indian Penal Code, 1860 was registered against the Petitioner at P.S. Connaught Place. Following the registration of the FIR, and upon the completion of the investigation, a charge sheet was filed on 31st August, 2018.



2.2 On 25th October, 2024, the Metropolitan Magistrate framed charges against the Petitioner for offences under Sections 417 and 471 IPC.

2.3 Dissatisfied with the framing of charges, the Petitioner preferred a revision petition before the Court of Additional Sessions Judge,¹ which has been dismissed through the impugned order, upholding the framing of charges.

2.4 Aggrieved, the Petitioner has filed the instant petition, impugning the orders of the Metropolitan Magistrate and Additional Sessions Judge.

3. Counsel for the Petitioner makes the following submissions:

3.1 The Petitioner belongs to the *Khariya* caste and was issued a Scheduled Tribe² Caste Certificate on 12th July 1985. Based on this certificate, the Petitioner was appointed as a Junior Stenographer with the New Delhi Municipal Council³ in 1994, in a position reserved for the ST category. The Petitioner has since completed nearly 19 years of unblemished service with the NDMC. However, following an anonymous complaint, the aforesaid ST certificate, has been alleged to be a fake certificate.

3.2 The ASJ as well as the MM have failed to consider that, based on the FIR and the documents collected during investigation, no offence under Section 417/471 of IPC has been made out.

3.3 The Investigating Officer⁴ has failed to carry out any investigation in order to determine as to whether the Caste Certificate was indeed issued by the District Welfare Officer or not. No effort has been made to compare the signatures or the seal of the District Welfare Officer on the Petitioner's caste

¹ "ASJ"

² "ST"

³ "NDMC"

⁴ "IO"



certificate, nor has handwriting analysis been done to ascertain the authenticity of the certificate.

3.4 Furthermore, both the ASJ and MM have failed to appreciate that the Prosecution has not contested the fact that the Petitioner belongs to the *Khariya* community or that he was a resident of Saran (Chapra). Therefore, there is no claim that such a certificate could not have been issued.

3.5 The entire basis of the charge sheet rests on the letters issued by the concerned department, which, *inter alia*, deny the issuance of the Petitioner's caste certificate, citing the unavailability of records pertaining to the issuance of the Caste Certificate. This is insufficient to charge the Petitioner.

3.6 The ASJ ought to have taken into account the reservation policy in effect at the time the Certificate was issued. In the absence of the aforementioned investigation, merely on the basis of evidence presented with the chargesheet, the charges cannot be sustained.

4. On the other hand, Mr. Amit Ahlawat, APP for the State, strongly opposes the petition. He contends that the impugned order is well-reasoned. He further argues that the Petitioner's arguments are primarily factual in nature, and can be adequately addressed during trial. Furthermore, he points out that the trial has, in fact, commenced, and one witness has already been examined.

5. The Court has duly considered the aforementioned contentions. The inherent jurisdiction under Section 528 of the Bhartiya Nagrik Suraksha Sanhita (erstwhile Section 482 of CrPC) is exercised where there is a manifest abuse of process or a palpable injustice. This power is not intended to adjudicate factual disputes or short-circuit the trial process. Courts must



exercise restraint, especially at the pre-trial stage, to allow the Prosecution to present its case fully. Having regard to the circumscribed scope of revision jurisdiction, the Court has perused the impugned order dated 16th November, 2024. The ASJ has considered the contentions put forth by the Petitioner, and given sufficient reasoning for declining to quash the charges at this stage. The relevant portion of the impugned order reads as under:

“13. The present case FIR was registered on the written complaint of Deputy Director, Vigilance, NDMC. The revisionist was appointed for the post of Jr. Stenographer on the seat reserved for SC/ST category. The accused has submitted a caste certificate of ST category and on verification by the department, the issuing authority has denied the issuance of the certificate in question.

14. The main thrust of the arguments on behalf of the revisionist is that he had no knowledge of the said caste certificate being fake and he had used it bonafidely. It is emphasised that the accused belongs to kharia caste and he had no occasion to get prepare fake caste certificate of ST category. The revisionist has raised the issue that the diary dispatch register of the relevant period has not been collected during the investigation.

15. Ld. Trial Court has passed the detailed and well reasoned order upon considering the material on record. The Ld. Trial Court has rightly observed that there is no evidence to the fact that the accused is the maker of the alleged forged document and accordingly, the charge has not been framed for the offence punishable under Section 468 IPC.

16. The issue in this case is not the caste and the category, to which the accused belongs, rather the case of prosecution is the caste certificate, which could not be verified by the issuing authority. The departmental inquiry led to the conclusion that the caste certificate submitted by the accused was not genuine as the same was not issued by the issuing authority.

17. The revisionist has raised certain triable issues as to the admissibility of documents. The Ld. Trial Court has rightly refrained entering into the mini trial at the stage of charge. At the stage of considering on charge, the court is not expected to make roving inquiry as to the probity of evidence. The broad probabilities and admissibility of documents has to be looked into during the trial. The triable issue cannot be decided without giving opportunity to the prosecution to adduce evidence for the same.

18. The grounds taken by revisionist call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the



trial court and while doing so, even the submissions made on points of law can also be more appropriately gone into by the trial court in this case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. A threadbare discussion of various facts and circumstances, as they emerge from the allegations made against the revisionist, is being purposely avoided by the Court for the reason, lest the same might cause any prejudice to either side during trial. But it shall suffice to observe that in view of the material available on record, there was sufficient material to frame charge the revisionist for offence punishable under section 417/471 IPC.

19. With these observations, present petition stands dismissed.

20. TCR be sent back to the Ld. Trial court along with copy of this judgment.

21. Revision file be consigned to Record Room after due compliance.”

6. The ASJ has meticulously examined the material on record and the contentions raised by the Petitioner. It has been observed that the core issue in the present case is not the Petitioner's caste or category but the authenticity of the caste certificate submitted at the time of appointment. The Issuing Authority has categorically denied issuing the certificate, and the departmental inquiry has concluded that the document is not genuine. The Trial Court, acknowledging the absence of evidence implicating the Petitioner as the creator of the forged document, declined to frame charges under Section 468 IPC. However, based on the available material, sufficient grounds were found to proceed under Sections 417 and 471 IPC, as the authenticity of the certificate remains unverified. The ASJ has rightly refrained from conducting a 'mini-trial' at the stage of framing charges. It has been emphasized that the stage of charge is not meant for a detailed inquiry into the probity of evidence, but for assessing whether the material on record warrants proceeding to trial. The issues raised by the Petitioner, including the admissibility of documents and the factual disputes surrounding the issuance of the certificate, are triable in nature and can only



be resolved after the Prosecution adduces its evidence. In light of the foregoing, the Court finds no infirmity in the view taken by the ASJ in the impugned order. Indeed, all the contentions raised before this Court, as outlined above, pertain to factual disputes that the Petitioner will have to substantiate during the trial.

7. As noted above, the Issuing Authority has categorically denied issuing the certificate. In the absence of any record with the Issuing Authority, there exists no basis for comparing the signatures or the seal on the certificate, as the very authenticity of the document is in question. The Petitioner's contention that the Investigating Officer failed to conduct a handwriting analysis or retrieve the diary dispatch register of the relevant period, does not advance his case, as these measures would only be relevant if the existence of documents in the Issuing Authority's records was established. The issue is not the Petitioner's caste, but the genuineness of the certificate he submitted to secure a reserved position in public employment. The denial of the certificate's issuance by the concerned department raises a *prima facie* case that warrants trial. Additionally, the Petitioner's assertion that the Prosecution's reliance on departmental letters denying the issuance of the certificate is insufficient, overlooks the fact that the authenticity of such letters is a matter to be tested during trial, not at the stage of framing charges.

8. The Trial Court has rightly refrained from framing charges under Section 468 IPC, acknowledging the lack of evidence to suggest that the Petitioner himself forged the document. However, the charges under Sections 417 and 471 IPC pertain to the use of the certificate and the alleged misrepresentation made by the Petitioner, which are distinct issues requiring



adjudication. These arguments raised by the Petitioner, being factual in nature, can only be effectively addressed during the trial. For the foregoing reasons, the Court finds no ground to interfere in the present matter.

9. Dismissed, along with pending applications.

10. Nothing stated herein shall be construed as the Court's opinion on the merits of the case. The Petitioner shall be at liberty to urge all the grounds advanced in the present petition before the trial court.

SANJEEV NARULA, J

JANUARY 10, 2025

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