

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.1222 OF 2018

KOMAL PRASAD SHAKYA ...APPELLANT(S)

VERSUS

RAJENDRA SINGH AND OTHERS ...RESPONDENT(S)

WITH

CRIMINAL APPEAL NOS.1223-1224 OF 2018

RAKESH MISHRA AND ANR. ...APPELLANT(S)

VERSUS

RAJENDRA SINGH AND OTHERS ...RESPONDENT(S)

J U D G M E N T

K.V. Viswanathan, J.

1. The present appeals call in question the correctness of the judgment and order passed by the High Court of Madhya Pradesh, Bench at Gwalior in Miscellaneous Criminal Case No.5897 of 2014 and Miscellaneous Criminal Case No.6319 of 2014 dated 28.06.2016.

By the said judgment, the High Court has quashed the Criminal Complaint filed against the individual respondents herein, by the appellant in Criminal Appeal No.1222 of 2018, before the Chief Judicial Magistrate First Class, Guna. The complaint was filed in Criminal Complaint Case No.1072 of 2014 for offences under Sections 415, 416, 420, 467, 468, 471 and 120B of the Indian Penal Code, 1860 (for short the “IPC”). The Chief Judicial Magistrate First Class, by order dated 28.05.2014, took cognizance for offences punishable under Sections 420, 467, 468, 471 and 120B IPC and issued summons to the accused. The Additional Sessions Judge, by his order dated 01.07.2014, had dismissed the revision filed by the accused. The case was committed to the Sessions Court by the order dated 30.08.2014. However, by the impugned order, the proceedings stand quashed.

2. The complainant, Komal Prasad Shakya, is in appeal before us in Criminal Appeal No.1222 of 2018, aggrieved by the quashment of proceedings against accused Rajendra Singh, Harvir Singh and Amrik Singh. In the second matter, one Sh. Rakesh Mishra and one Sh. Anil Sharma have obtained leave from this Court to challenge the

quashment order and they have challenged the order claiming themselves to be social activists, including against the accused Smt. Kiran Jain (not part of the first appeal).

AVERMENTS IN THE COMPLAINT: -

3. The facts lie in a narrow compass. Criminal Complaint Case No.1072 of 2014 was filed before the Chief Judicial Magistrate alleging that accused Rajendra Singh and Amrik Singh - son and father respectively and are members of the unreserved category. They throughout held themselves out as General Category candidates. In the school admission register of Accused No. 1, he was shown as a “Sikh”. Accused Nos.1 and 2 did not belong to Scheduled Caste and before 20.02.2008 never claimed to be belonging to Scheduled Caste. They obtained ration card as General Category persons.

4. According to the Complaint, Accused No.1-Rajendra Singh, knowing that he is not a member of the Scheduled Caste, contested the 029 Guna Legislative Assembly Seat as a reserved category candidate, claiming himself to be belonging to the Scheduled Caste-Sansi. False information and affidavit were given claiming that he belonged to Sansi caste. Even Amrik Singh, the father, in support of

his son submitted false affidavit before the Tehsildar, Guna and forged the documents. Accused No.1, Rajendra Singh, hiding the facts wrote about him as belonging to Sansi caste both in the application and the affidavit and obtained the certificate of being member of the Scheduled Caste from the Tehsildar, Guna and then from the Sub-Divisional Officer, Guna on the basis of the temporary certificate. The accused No.1, Rajendra Singh, knowing that he is not of the Sansi caste, in the election to the Guna Assembly, gave forged affidavit and application and used the certificate obtained on the basis of false information for contesting the Legislative Assembly Election. The other accused conspired with the accused No.1 in helping him obtain Scheduled Caste Certificate on the basis of false facts and affidavit. The other accused gave statement of certification, investigation report, and signed *panchnamas* in favour of Accused No.1.

5. The Complainant averred that the accused Kiran Jain, being Councilor of Ward No.16, gave certification that accused Rajendra Singh belonged to Sansi caste, knowing that Rajendra Singh did not belong to Sansi caste. The accused Harvir Singh, from the

Gurudwara Management Committee, Guna, gave certification of Rajendra Singh Saluja-Accused No.1 as belonging to Sansi caste knowing that the Accused No.1 did not belong to Sansi caste.

6. Similar allegations of conspiracy were also made against other accused arraigned in the complaint. That accused Gajadhar Prasad Agarwal submitted false affidavit and statement to Tehsil, Guna, knowing fully well that accused-Rajendra Singh and his father Amrik Singh were not members of the Scheduled Caste. Equally, accused Dr. R.S. Bhati gave a false medical certificate. Accused-Awadhesh Maheshwari prepared one *panchnama* on false basis and signed the *panchnama* stating wrongly that the accused-Rajendra Singh is of 'Sansi' caste. It was also falsely mentioned that accused-Rajendra Singh was residing in the State of Punjab in the year 1950 and that the caste was Sansi. On the said *panchnama* accused-Mahendra Sharma, Patwari, also signed and prepared forged documents and helped in the preparation of the caste certificate. Accused-Virender Katare misused the post of Tehsildar and issued provisional caste certificate stating that accused-Rajendra Singh is of 'Sansi' caste. Accused-D.K. Jain, Sub-Divisional Officer, by not adopting the laid-down procedure,

issued permanent caste certificate to accused-Rajendra Singh without doing any investigation himself. The accused-Awadhesh Pratap Singh did not do investigation according to the instructions of the Investigation Committee about the caste of Accused No.1.

7. It was further averred in the complaint that the Scheduled Caste Certificates Investigation Committee, Bhopal found that the accused was not a resident of Madhya Pradesh before the year 1950. The Committee, after finding that the certificate was wrongly issued, cancelled the certificate issued to Rajendra Singh. The High Court dismissed the Writ Petition of Rajendra Singh on 21.03.2012. The Writ Appeal was dismissed on 17.05.2012 and this Court dismissed the Special Leave Petition on 04.03.2013. The caste certificate was confiscated on 26.05.2012. In spite of complaint to the Superintendent of Police, no action being taken, the complaint was lodged against the accused for offences punishable under Sections 415, 416, 420, 467, 468, 471 and 120B, IPC.

8. On 28.05.2014, after recording the solemn affirmation of witnesses, the Trial Court took cognizance and issued summons against accused-Rajendra Singh (under Sections 420, 467, 468 and

471 IPC) and against Amrik Singh, Harvir Singh & Kiran Jain (under Sections 420, 467, 468, 471 read with Section 120B, IPC). The complaint was dismissed with regard to the other accused. The revision filed before the Addl. Chief Judicial Magistrate, Guna by the accused was dismissed on 01.07.2014. On 30.08.2014 the Trial Judge committed the case to the Sessions Court.

9. The respondents filed two separate Quash Petitions in the High Court. While Harvir Singh, Amrik Singh and Rajendra Singh filed Miscellaneous Criminal Case No.5897 of 2014, Kiran Jain filed Miscellaneous Criminal Case No.6319 of 2014. The High Court having allowed the Quash Petitions by its judgment dated 28.06.2016, the appellants are before us in appeal(s).

ORDER OF THE HIGH COURT: -

10. The High Court virtually conducted a dress rehearsal of the trial. The High Court held that the conduct of Rajendra Singh in claiming himself to be a “Sikh”, first for a number of years, and only thereafter setting-up the case that he was a Sansi, could be due to ignorance of law; that the case of Harvir Singh and Kiran Jain were similar to the other accused against whom cognizance was not taken; that due to

legal illiteracy it was possible that being a member of “Sikh” community, father or grandfather of the accused-Rajendra Singh would not have thought that they can claim for various reservations on the basis of their caste and, therefore, the applicants have declared themselves as “Sikh” while filling-up the column in various applications and other documents; that there was no evidence to show that information received from the office of Tehsildar of Amritsar was manipulated by the accused-Rajendra Singh or his father Amrik Singh; and that one Sub-Inspector sent for verification of the information, found the information to be correct that the forefathers of the accused-Rajendra Singh were registered as ‘Sansi’ by the office of Tehsildar, Amritsar.

11. The High Court also rendered a categoric finding about offences under Sections 467, 468 and 471 not being attracted based on the text of the caste certificate. The High Court held that insufficiency of evidence leading to the issuance of the caste certificate will not attract the offence of forgery.

12. It was further held that when the said document was not challenged and no evidence was produced that information or

certificate issued by the Tehsildar, Amritsar was not correct, then it cannot be said that by filing of an application and getting a caste certificate dated 08.08.2008 the accused-Rajendra Singh had committed the crime of cheating. Similarly, it was held by the High Court that if on the basis of information given by the senior members of the family, the accused-Amrik Singh had executed an affidavit in support of the accused-Rajendra Singh, then it cannot be said that he participated in the conspiracy of cheating. No criminal act emerges from the cancellation of the certificate by the High Powered Scrutiny Committee. Hence, according to the High Court, none of the offences for which cognizance was taken was attracted, so holding the High Court quashed the proceedings.

CONTENTIONS OF LEARNED COUNSEL: -

13. We have heard Mr. Anuj Bhandari, learned counsel for the appellant and Ms. Ruchi Kohli, learned senior counsel for the accused-respondents.

14. Mr. Anuj Bhandari, learned counsel, submits that as evidenced by the ration card and other documents, accused-Rajendra Singh claimed to be a General Category candidate all his life, and none of

his family members ever claimed to be Scheduled Caste. It was only on 08.08.2008, just two months prior to the declaration of election, accused-Rajendra Singh got a false caste certificate issued in his name stating to be of “Sansi” community (Scheduled Caste). On the strength of the said false certificate the accused contested from the Guna Constituency and won the election.

15. The Caste Certificate Scrutiny Committee, by its order dated 10.08.2011, rightly set aside the caste certificate and the challenge to the orders of the Caste Scrutiny Committee by the accused-Rajendra Singh were not fruitful.

16. Learned counsel relied on the judgment of this Court in ***Kumari Madhuri Patil and Another vs Addl. Commissioner, Tribal Development and Others***¹, wherein this Court in Para 13(14) held that- in case scrutiny committee found that the certificate obtained or social status claimed was found to be false, the parent/guardian/the candidate should be prosecuted for making false claim; learned counsel submitted that there is clear allegation about the forgery of the *panchnama* in the complaint; learned counsel submitted that the

¹ (1994) 6 SCC 241

matter ought to have been set down for trial and should not have been nipped in the bud; learned counsel submitted that the offence of cheating is clearly attracted and submitted that the word “property” occurring under Section 420, IPC, is what the person benefitted acquires. Learned counsel contended that the defence of the accused could not be looked to at the stage of considering the Quash Petition.

17. Ms. Ruchi Kohli, learned senior counsel appearing for the accused submitted that complaint reeks of malafide, and is a witch-hunt against the accused. According to the learned senior counsel, no criminality was attributed by the Caste Scrutiny Committee. Learned senior counsel submits that the complaint, even if taken at the face value, the allegations pertaining to forgery i.e., Sections 467, 468 and 471 IPC, have not been established as taking the case of the complainant at the highest, obtaining documents based on false information would not be forgery. According to the learned senior counsel, the complainant has nowhere alleged that the answering respondent has signed, sealed, executed or prepared the document. In view of that, there is no case of commission of forgery being made out.

18. Learned senior counsel further contends that the impugned order has rightly recorded that there was no evidence on record to establish that there was any manipulation of record at the office of the Tehsildar, Amritsar. Learned senior counsel contends that even the SP who verified the information stated that the Tehsildar had in fact, given the information. The learned senior counsel contends that there being no malafide intent in obtaining the certificate, no element of cheating also is attracted and the caste certificate was cancelled due to lack of procedural norms being followed. The learned senior counsel prayed for dismissal of the Civil Appeal(s).

FINDINGS: -

19. We have carefully considered the contentions of the learned counsels for the parties and perused the records.

20. The undisputed facts that emerge are that the respondent-accused Rajendra Singh on 08.08.2008 obtained the caste certificate showing him as Scheduled Caste from the Sub-Divisional Officer, Guna, portraying him as belonging to 'Sansi' caste. It is also undisputed that the responded-accused Rajendra Singh contested the

election to the 029-Guna (SC reserved) Assembly Constituency and won the election. On a reference to the Scrutiny Committee, by its order dated 10.08.2011, the Scrutiny Committee directed the forfeiture of the caste certificate by recording the following operative directions:

“(4) It was found after examination of record and statements of witnesses that Caste Certificate of 'Sansi' has been issued in the name of Sri Rajendra Singh Saluja only on the basis of affidavits and statements of witnesses. There is no certified document regarding in proof of being residents of Saluja's family of Central India prior to 1950. It was also found that Rajendra Singh Saluja has not mentioned his caste "Sansi" in any important documents and at other places.

During inquiry of application of Sri Rajendra Singh Saluja for obtaining Caste Certificate, it is evident from sending of letter to Tehsildar, Amritsar with "Q" number through FAX on 5.5.2008 and after receiving information on 20.5.2008 and issuing Provisional Caste Certificate on 31.5.2008 that competent Revenue Officer has been benefited for doing favour to Sri Rajendra Singh Saluja. In this entire case, prescribed procedure for disposal of revenue matters under M.P. Land Revenue Code, such as, issuing notice, service of notice, maintenance of records etc, have not been complied with.

In totality, this is the decision of Committee after consideration of this matter that Sri Rajendra Singh Saluja failed in producing documentary evidence regarding being resident of Madhya Pradesh in 1950. Issuing of Certificate of Sansi Caste by Revenue Officers in illegal manner was found

and for this, Revenue Officer and Investigating Police Officer are responsible. Committee holds the decision of canceling and forfeiting the Caste Certificate of Sansi Caste dated 8.8.2008 of Sri Rajendra Singh Saluja.

Committee also recommends for taking disciplinary action against Issuing Officer of Caste Certificate, Inquiry Officers and non-applicant for taking undue advantage of the post reserved for Scheduled Caste in unauthorized manner.

The aforesaid Caste Certificate of Sri Rajendra Singh Saluja, son of Sri Amrik Singh Saluja be forfeited getting it cancelled with immediate effect and action be initiated under different Acts.”

The decision has been sustained right up to this Court.

21. We have perused the Criminal Complaint filed on 18.07.2013 in Criminal Case No.1072 of 2014. We have summarized the complaint in the earlier part of the judgment. As would be clear from the averments summarized above, it could not be said that on a reading of the complaint and the unimpeachable documents that no offence under Sections 420, 467, 468, and 471, IPC, against accused-Rajendra Singh and Sections 420, 467, 468, 471 read with Section 120B, IPC, against accused-Amrik Singh, Harvir Singh and Smt. Kiran Jain are *prima facie* made out. No doubt the ultimate outcome will be subject to further proof at the trial. In other words, it could not be said that on

a demurrer the complaint can be quashed against the said four accused.

22. It is clearly alleged in the complaint that Rajendra Singh and Amrik Singh belong to General category and always held out themselves to be belonging to General category and only for the purpose of contesting the election as a reserved candidate on the eve of the election submitted documents and affidavits and *panchnama* for obtaining the caste certificate. We have also perused the order taking cognizance. The learned Trial Judge has meticulously applied his mind and sifted the chaff from the grain and out of twelve accused arrayed has, for the reason adduced, taken cognizance only against the four respondents-accused herein.

23. We are consciously not delving into the merits of the averments lest it prejudice the case of the accused at the trial. The High Court has conducted a mini trial as is clear from the following findings:

“(19) As discussed above, due to legal illiteracy, it is possible that being a member of "Sikh" community, father or grand-father of the applicant Rajendra Singh would not have thought that they can claim for various reservations etc. on the basis of their caste and therefore the applicant Rajendra Singh and his family members have used the name of the community as "Sikh" while filling up column of caste in various applications and documents. However, it is pertinent to note

that there is no evidence filed by the complainant to show that the information received from the office of Tahsildar of Tahsil Amritsar [State of Punjab] was manipulated by the applicant Rajendra Singh or his father Amreek Singh. One Sub-Inspector was sent for verification of that information and he found the information to be correct that the forefathers of applicant Rajendra Singh were registered as "Sansi" by caste in the office of Tahsildar of Tahsil Amritsar [State of Punjab]. It would be clear that due to such verification, S.P. Guna did not register any criminal case against any of the applicants, after getting the order of High Power Scrutiny Committee. When that document was not challenged and no evidence was produced that information or certificate issued by the Tahsildar, Amritsar, was not correct then it cannot be said that by filing of an application and getting a caste certificate dated 08.08.2008, the applicant Rajendra Singh had committed a crime of cheating. Similarly, if on the basis of information given by the senior members of the family, the applicant Amreek Singh had executed an affidavit in support of the applicant Rajendra Singh then it cannot be said that he participated in the conspiracy of cheating.

(20) In the order dated 10.08.2011 passed by the High Power Scrutiny Committee, no comments were given on the certificate or the information received from the office of Tahsildar of Tahsil Amritsar. Hence, though the certificate was cancelled and forfeited but **no criminal aspect emerges from that cancellation order because the High Power Scrutiny Committee did not give any opinion that information received from the office of Tahsildar of Tahsil Amritsar was incorrect** or such information was recorded in that office by fraudulent applications etc.

(21) **As discussed above that possibility cannot be ruled out that the applicant Rajendra Singh was not aware about his caste. He and his father were of the view that initially they were "Sikh" but when they obtained an information that amongst the Sikh community there are so many castes and they were of the caste "Sansi" then if the applicant has claimed for the right of that caste by moving an application to get a caste certificate and a caste certificate was also provided**

by Sub-Divisional Officer, Guna on 08.08.2008 then in the light of the information received from office of Tahsildar of Tahsil Amritsar [State of Punjab] the overt act of the applicants Rajendra Singh and Amreek Singh do not fall within the purview of cheating. When the applicant Rajendra Singh got an intimation that he belongs to "Sansi" caste which falls within the Scheduled Caste category then if he moved any application and collected some documents in support of his application then he had every right to prosecute his rights. Unless it was established that the information sent by office of Tahsildar of Tahsil Amritsar [State of Punjab] was incorrect or those were prepared due to fraudulent activities of the applicant Rajendra Singh or his father applicant Amreek Singh then *prima facie* it shall be presumed that the forefathers of the applicant Rajendra Singh were registered as the persons belonging to "Sansi" by caste at office of Tahsildar of Tahsil Amritsar [State of Punjab]. Hence, though the caste certificate was cancelled and forfeited by the High Power Scrutiny Committee but no criminal indication emerges by the cancellation of that certificate. Hence, if the applicant Rajendra Singh and his father Amreek Singh have tried to get an advantage of the caste of their forefathers whose caste was already registered soon after the year 1950 at the office of Tahsildar of Tahsil Amritsar [State of Punjab] then their conduct does not fall within the purview of cheating. Nobody is prohibited to get the advantage of his/her caste. It is a different thing that due to non-availability of proper evidence and without proceeding according to the appropriate procedure the Sub-Divisional Officer, Guna had issued a caste certificate in favour of the applicant Rajendra Singh and thereafter it was cancelled by the High Power Scrutiny Committee then still the applicant Rajendra Singh and Amreek Singh cannot be held guilty of offence of cheating. Hence, no offence under Section 420 of IPC or inferior offence of similar nature is *prima facie* made out against the applicants Rajendra Singh as well as Amreek Singh.

(22) On the basis of the aforesaid discussion, it would be apparent that no offence under Section 467, 468 or 471 of IPC is made out against any of the applicants either directly or with the help of Section 120-B of IPC because the caste certificate dated 08.08.2008 was not *prima facie* established to be forged. Similarly, in the light of the information given by office of Tahsildar of Tahsil Amritsar [State of Punjab] where the caste of the forefathers of the applicant Rajendra Singh is mentioned as "Sansi", no offence of cheating is made out against any of the applicants either directly or with the help of Section 120-B of IPC. Both the courts below did not consider the legal aspects of the case as discussed above and orders passed by the courts below are perverse. Though the present petitions are allowable against the orders passed by the courts below, however, applicants have also challenged the registration of complaint and therefore this Court is competent to quash the proceedings of the criminal complaint before the concerned court.”

(Emphasis supplied)

24. The findings about legal illiteracy are conjectural and patently erroneous. Further at the stage of exercising powers under Section 482 to record that no evidence was produced is also untenable. The further finding that the accused-Rajendra Singh and Amrik Singh were unaware about the caste initially is also conjectural in nature. In so far as accused-Harvir Singh and Smt. Kiran Jain are concerned the averments in complaint are to the effect that accused-Kiran Jain being Councilor of Ward No.16 gave certification of the accused-Rajendra Singh being of Sansi caste with the knowledge that accused-Rajendra

Singh was not of Sansi caste. Similarly, Harvir Singh also certifying about the accused-Rajendra Singh as belonging to the Sansi caste was alleged in the complaint to be an act done to favour Rajendra Singh.

25. The argument of Ms. Ruchi Kohli, learned senior counsel that the complaint was a witch-hunt is too sweeping a statement to be accepted particularly in view of the finding of the Scrutiny Committee. The further argument that no case for offences under Sections 467, 468, and 471, IPC are attracted is also a contention which cannot be accepted at this stage. The averments in the complaint do allege forgery having been practiced for obtaining the certificate. The relevant paras of the complaint are extracted hereinbelow:-

“6. The accused no. 2 to 11 in collusion with accused no. 1, with the intention to give him benefit, under a conspiracy in making Scheduled caste certificate on the basis of false facts, giving affidavit in favour of accused no. 1, giving statement of certification, giving investigation report in his favour and signing on the panchnama, fully contributed and forging the fake documents, cheatingly got involved in the conspiracy and deliberately did the crime.

7. ...The accused no. 11 Avdesh Maheshwari to give benefit to the accused Rajinder Singh, joining in conspiracy prepared one panchnama on dated 30.03.2008 on false basis and did his signatures and in the panchnama this was totally false and forged writing that the accused Rajinder Singh is of Sansi caste. This

false and forged thing was also written that the family of the accused Rajinder Singh was residing in Punjab State in the year 1950. And their caste is Sansi. On this very Panchnama the accused no. 5 Mahender Sharma Patwari also signed and preparing forged documents, involved in the conspiracy and helped him in preparing caste certificate...

8. ...The accused Virender Katare considered correct the letter and panchnama of the Tehsildar without any fair investigation, having false basis whereas that is forged document which has been managed by the accused Rajinder Singh Saluja himself in collusion with Virender Katare. The panchnama which has been considered as basis by the accused Virender Katare that is in Hindi and there the word of caste not being Sansi rather Sanhsi has been written.”

26. As to whether the offences will be made out at the trial will depend on the evidence adduced. At this stage, it cannot be said that there is a case for nipping the prosecution for these accused at the bud.

27. Equally, the contention that Section 420, IPC, is not attracted even taking the complaint as it is, is also a contention which is bereft of merit. The appellants contended that accused-Rajendra Singh was the beneficiary and the caste certificate was the “property” which was obtained by deceiving the authorities. As to whether the complainant is able to make good the case at the trial will depend upon the evidence which is forthcoming.

28. In view of what has been stated hereinabove, we allow the appeals and set aside the order of the High Court dated 28.06.2016 in Miscellaneous Criminal Case No.5897 of 2014 and Miscellaneous Criminal Case No.6319 of 2014. The Criminal Complaint Case No.1072 of 2014 on the file of Judicial Magistrate First Class, Guna, along with the order dated 28.05.2014 taking cognizance will stand restored to the file of Chief Judicial Magistrate First Class, Guna. We direct that the trial shall be proceeded with from that stage. Considering that it is a complaint of 2014 we further direct that the trial be concluded expeditiously in any event within a period of one year from today. Needless to observe that the trial will be held uninfluenced by the findings of the High Court and this Court in the present proceeding.

.....J.
[**B.V. NAGARATHNA**]

.....J.
[**K. V. VISWANATHAN**]

New Delhi;
14th October, 2025