

HIGH COURT OF PUNJAB AND HARYANA**Bench: Hon'ble Mr. Justice Deepak Gupta****Date of Decision: 1st May 2024**

CRIMINAL MISCELLANEOUS NO. 43772 OF 2019

Amit Jindal and another — Petitioners**Vs.****State of Punjab and another — Respondents****Legislation and Rules:**

Sections 420, 120-B of the Indian Penal Code (IPC)

Section 482 of the Criminal Procedure Code (Cr.P.C.)

Section 91 of the Criminal Procedure Code (Cr.P.C.)

Subject: Petition under Section 482 Cr.P.C. seeking quashing of FIR involving allegations of fraudulent misrepresentation concerning the accreditation of an educational course by Singhania University.

Headnotes:

Criminal Procedure – Quashing of FIR – Petition under Section 482 Cr.P.C. to quash FIR for cheating and conspiracy lodged based on allegations of fraudulent misrepresentation by organizers of an education centre regarding the recognition of an educational course – Supreme Court guidelines on quashing FIRs discussed, specifically in the context of misrepresentations about university course accreditation – FIR not quashed, as allegations and investigation suggest prima facie case against petitioners – Allegations involve misrepresentation of NCTE recognition for ETT course offered by Singhania University, which led to the complainant's employment opportunities being adversely affected – Investigations revealed that Singhania University was not recognized by NCTE to conduct the said course, contrary to what was advertised by the petitioners – Supreme Court's guidelines from State of Haryana vs. Ch. Bhajan Lal referred to determine non-applicability of quashing the FIR – Petition dismissed on grounds that prima facie case exists based on allegations and evidences – Petitioners' contention that FIR was an abuse of process not accepted as Singhania

University's non-recognition by NCTE for ETT course stands confirmed by NCTE and university admission forms. Dismissed. [Paras 1-13]

Referred Cases:

- State of Haryana and others Vs. Ch. Bhajan Lal and others, 1992 AIR 604.

Representing Advocates:

Mr. Prince Goyal for the petitioners

Mr. Ramandeep Singh, Sr. DAG, Punjab for the State

Mr. Sardavinder Goyal for respondent No.2 (Through Video Conferencing)

**** **DEEPAK**

GUPTA, J.

By way of this petition filed under Section 482 Cr.P.C., petitioner prays to quash FIR No.42 dated 18.03.2017 registered at Police Station Civil Lines, District Bathinda under Sections 420, 120-B of the IPC.

2. Perusal of the paper-book would reveal that FIR was lodged on the complaint of respondent No.2 Tara Rani made to SSP, Bathinda alleging therein that organizers of Kips Education Centre, Street number 9-B, Ajit Road, Bathinda, namely, Amit Jindal and Naveen Jindal (*petitioners herein*) besides Jitesh Kumar and an unknown girl through pamphlets advertised for getting admission in ETT (Elementary Teacher's Training) course from Singhania University, Panchoribari, Rajasthan in 2008 so as to get Government job after taking the said course. Complainant went to the institution and saw a board of Singhania University affixed outside the institution. The organizers of the institution represented to the petitioner that the said Singhania university was recognized by NCTE (National Council for Teacher Education) for running ETT course and that said course was approved by the Punjab Government. Believing the representation, complainant took admission in ETT and completed 02 years course during 2008-10. It was stated further that after doing the ETT course, complainant passed the PSTET-1 exam in 2015, necessary to get appointment as Government teacher. Complainant then applied for posts of ETT teachers, advertised by Selection Board, Punjab in 2016. Her name appeared in the merit list but her result was withheld by

stating that the Singhania university was not recognized by NCTE for conducting ETT course. Complainant verified this version of the education department by obtaining information under RTI from NCTE and it was confirmed that Singhania University was not having any recognition from NCTE. Complainant then approached organizers of Kips Education Centre but they did not give any satisfactory reply.

3. The allegations made into the complaint were duly enquired by SP, City and it was found that Singhania University did not have any recognition from NRC/NCTE for conducting ETT course and that the petitioners had cheated the innocent students including the complainant through their Kips Education Centre, thus causing loss to their future. During investigation, the two petitioners were arrested. Report from NCTE was also collected, as per which Singhania University was not recognized to conduct ETT course. Jitish Kumar, as named in the FIR was found to be innocent. After completion of investigation, final report under Section 173 Cr.P.C. was filed to prosecute the two petitioners. Charges against them have already been framed by the Court concerned.
4. It is contended by the petitioners that FIR is abuse of process of law and has been filed to harass the petitioners to extract money from them. Prior to getting the FIR registered, complainant had filed CWP-24754-2016 (*copy Annexure P-4*) before this Court, in which she herself had mentioned that Singhania University was duly recognized private university and that other candidates, who had passed ETT course from the same university had been appointed as Teachers by the State Government. This Court had issued notice of motion but he complainant (*respondent No.2 herein*) failed to obtain any interim stay. Then, by suppressing the fact of this earlier CWP No.24754-2016, complainant filed yet another CWP-51-2017 (*copy Annexure P-5*) on the same cause of action. Learned counsel submits that both the abovesaid civil writ petitions were filed prior to the filing of the complaint, which has led to the registration of the FIR and that the only motive of the complainant is to extract money. It is also contended that as complainant was studying in the Singhania University as a regular student for two years, so it is highly improbable that she was not aware of the fact that university was not recognized from NCTE. Still further, it is contended that complainant was well aware since beginning that Singhania University was UGC recognized

university. With all these submissions, prayer is made by the petitioners to quash the FIR and all the subsequent proceedings.

5. Learned State counsel along with counsel representing respondent No.2 strongly opposed the petition by submitting that investigation has clearly revealed that Singhania University was not approved by NCTE for conducting ETT course. Learned counsel for the complainant has also drawn attention towards a blank admission form, which was handed over to the police during investigation by the representative of the Singhania University, in which it is mentioned that said Singhania University is not approved by NCTE/ALCTE/PCI and that the said university was only approved by UGCACT. Learned counsel contends that despite specific demand by the Investigating Officer from the Singhania University so as to produce the admission form of the complainant, no such form was produced, in case the complainant had been made aware about the fact that Singhania University was not approved by NCTE. Learned State counsel submits that case is not fit for quashing of the FIR. Prayer is made for dismissal of the petition.

6. I have considered submissions of both the sides and have perused the record.

7. In ***State of Haryana and others Vs. Ch. Bhajan Lal and others***” 1992 AIR 604, Hon’ble Supreme Court has laid down the guidelines as to the cases, in which High Court can exercise its extraordinary power to quash the FIR under Section 482 Cr.PC. It was held as under: -

“8.1. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration, wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide of myriad kinds of cases wherein such power should be exercised:

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(b) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(c) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(d) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(e) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(f) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

8. It is in the light of aforesaid guidelines that it is required to be seen as to whether the FIR in question in the present case, should be quashed, as is prayed for by Id. counsel for the petitioner.

9. In the present case, it is the specific allegation of the complainant that it was represented to her by the petitioners, running Kips Education Centre that Singhania University was duly recognized by NCTE for conducting ETT course and that it is on the basis of this representation that she had taken

admission and completed the two years course. It is only after her result was withheld by the Selection Board, Punjab for appointment of ETT Teacher in 2016 on the pretext that the said university was not recognized by NCTE to conduct ETT course that complainant came to know of the fraud committed with her, after verifying the said fact from NCTE by obtaining information through RTI.

10. Petitioners have mainly relied upon the contention raised by the petitioner in CWP-24754-2016, para Nos.12 & 13 of which, are specifically pointed out by learned counsel for the petitioners. These read as under:

“12. That it is worthwhile to mention here the Singhania University, Rajasthan, which is a duly recognized private university and the name of the said university exists in the official website of the UGC as a Private University, hence, the ETT 2 years course done by the petitioner from the Singhania University, Rajasthan is duly valid for all purposes and intent. For the kind perusal of the Hon'ble Court a copy of the information downloaded from the official website of the UGC showing the name of the Singhania University as a recognized private university is annexed as Annexure P-8. Since, the university from where the petitioner obtained the ETT qualification, is duly recognized by the UGC as such her ETT qualification is duly valid for the purpose of employment. Further, the objection of the respondents is totally unsustainable because the petitioner has passed the ETT course on regular basis from respondent no. 5 University and as per the guidelines of NCTE i.e. National Council for Teachers Education the Universities of outer states imparting Education through distant mode are not valid, whereas, the petitioner has completed her ETT course from respondent no.5 University through regular mode and not through distant mode and as such the petitioner is fully eligible for the selection.

13. That as submitted above the respondent department selected many of the candidate to posts of ETT teachers out of those selected candidate many of the candidates are having lesser marks than that of the petitioner in general category and further for the same 2005 posts respondent No. 6 has been selected and appointed although he was having ETT degree from same respondent no. 5 university but the petitioner has not been selected on the ground that she has done ETT course from the Singhania University, Rajasthan but without giving any reason.”

11. Perusal of the aforesaid paragraphs of CWP-24754-2016, as relied by counsel for the petitioners would clearly indicate that the contention raised by the complainant was to the effect that Singhania University existed on the official website of UGC as a private university and so, the two year ETT course done by her (complainant) from this university is duly valid. It was not at all the contention of the complainant in that petition that said university was duly recognized by NCTE to conduct ETT course. As such, the contentions raised in CWP-24754-2016, cannot be considered to be admission on the part of the complainant to the effect that she was aware of the fact that Singhania University was not approved by NCTE to conduct ETT course. Even otherwise, it will be a matter of defence, which may be raised by the petitioners at appropriate stage of trial.
12. Further, vide a notice dated 28.07.2017 (*Annexure P6*), SHO Police Station Kotwali, Bathinda, during investigation of the present case, by serving notice under Section 91 Cr.P.C. called upon the representative of Singhania University to provide certain documents, which amongst them included the copy of admission form of student Tara Rani i.e. complainant besides other details. Vide reply (*Annexure P-7*), the representative of the university clearly stated that copy of admission form of Tara Rani was not found as per their record. The said representative of the university also handed over to the IO a blank admission form of the Singhania University, wherein a declaration is made, to be signed by the candidate, as per which said student is aware that Singhania University is not approved by NCTE/ACTE/PCI and that university is only approved by UGC. However, Singhania University failed to provide the admission form of the complainant in order to show that she was made aware of this fact that Singhania University was only approved by UGC and that it was not approved by NCTE particularly to conduct the ETT course. The admission form as annexed with Annexure P-7 is for the session 2017-18 and as it appears that after the present FIR and similar other FIRs were lodged against Singhania University, as has been pointed out in the status report, the University started mentioning in its admission form for the knowledge of the students that the university was only recognized by UGC and not by NCTT.
13. On account of the entire discussion as above, it is held that allegations contained in the FIR; and the investigation conducted in the matter, would *prima facie* indicate the commission of the offences by the petitioner. The present case does not fall under any of the guidelines as laid by Hon'ble

Supreme Court in ***Bhajan Lal's case (supra)*** so as to quash the proceedings of this case.

As such, finding no merit in the present petition, same is hereby dismissed.

© All Rights Reserved @ LAWYER E NEWS

*Disclaimer: Always compare with the original copy of judgment from the official website.