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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
JUSTICE SUJOY PAUL
ON THE 1st OF DECEMBER, 2022
CRIMINAL REVISION No. 3829 of 2018**

BETWEEN:-

GHANSHYAM PATEL @ LALLU S/O SHRI RAMBHUWAN PATEL, AGED ABOUT 49 YEARS, OCCUPATION: CLERK DOCM SUHAGPUR AREA (SECL) R/O VILLAGE DHIROUL, POST PATNA KALA, POLICE STATION-CHACHAI DISTRICT ANUPPUR (MADHYA PRADESH)

.....PETITIONER

(BY SHRI MANISH DATT, SENIOR ADVOCATE WITH SHRI ESHAAN DATT, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THR. POLICE STATION POLICE STATION PALI DISTRICT UMARIA (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI AMIT BHURRAK, PANEL LAWYER)

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This revision coming on for admission this day, the court passed the following:

ORDER

With the consent, finally heard.

This revision filed under Section 397/401 of the Criminal Procedure Code (hereinafter referred as 'Cr.P.C.') takes exception to the order dated 29/06/2018 passed in Sessions Trial No.44/2017 by learned Second Additional Sessions Judge, Umariya, whereby charge under Sections 467/120-B, 468/120-B and 471/120-B of the Indian Penal Code are framed against the applicant.

Shri Manish Datt, learned Senior Advocate for the applicant by placing

reliance on the factual backdrop which is reproduced in the charge as well as in the FIR urged that as per the case of prosecution, applicant's younger brother Raghunath Patel by projecting himself to be present appellant and by using the mark-sheet/documents of present applicant secured employment in South Eastern Coalfields Limited (SECL). Accordingly, employer lodged the FIR on 27/06/2014 as Crime No.220/2014. On the basis of this FIR, the investigation was conducted and ultimately the matter travelled to the Court and Court below framed the charges on 29/06/2018.

Learned Senior Advocate submits that there is no independent charge made under Section 120-B of IPC against the applicant. A Division Bench of this Court in **Criminal Appeal No.657/2020 (Mahendra kumar Shukla vs. State of Madhya Pradesh)** decided on 02/09/2022 opined that mark-sheet is not a 'valuable security' and therefore, offence under Section 467 of IPC is not sustainable. Thus, the charge so far it relates to Section 467/120-B of the IPC deserves to be interfered with.

So far charge under Section 468/120-B of the IPC is concerned, it is submitted that as per prosecution story, applicant has not committed any forgery and tampered with the document. As per the allegations, applicant's brother had undertaken aforesaid exercise and secured employment on that basis. Thus, Section 468 cannot be pressed into service against the applicant.

By taking this Court to the language employed in Section 471 of IPC, it is urged that this provision comes into play against a person who fraudulently or dishonestly used any document knowing fully well that it is a forged one. There is no allegation against the applicant that he has either tampered any documents or used the said document to procure any benefit. Thus, all the charges framed against the applicant deserves to be interfered with. The matter may be remitted

back before the Court below to reconsider the aforesaid aspect.

Shri Bhurak, learned Panel Lawyer for the State supported the impugned order dated 29/06/2018 (Annexure-2) and placed reliance on the FIR dated 27/06/2014, complaint and the enquiry report.

The parties confined their arguments to the extent indicated above.

I have heard the parties at length and perused the record.

Before dealing with the rival contentions advanced at the Bar, it is apposite to reproduce the relevant provisions:-

"468. Forgery for purpose of cheating. - Whoever commits forgery, intending that the [document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

471. Using as genuine a forged [document or electronic record] . - Whoever fraudulently or dishonestly uses as genuine any [document or electronic record] which he knows or has reason to believe to be a forged [document or electronic record], shall be punished in the same manner as if he had forged such [document or electronic record]."

(Emphasis supplied)

The Division Bench in the case of **Mahendra Kumar Shukla** (supra) has followed the *ratio decidendi* laid down by the Apex Court in **Shrinivas Pandit Dharmadhikari vs. State of Maharashtra (1980) 4 SCC 551** and came to hold that mark-sheet is not a 'valuable security' within the meaning of Section 467 of the IPC. I am bound by the aforesaid judgment and in view of said judgment constraint to hold that the charge against the applicant under Section 467 of the IPC is not sustainable.

Sections 468 and 471 begins with the expression '*whoever commits or whoever uses*'. The intention of law makers is clear that these provisions are aimed against the person who has used the forged document as a genuine document. If the story of prosecution is accepted on its face value, it will be clear that there is no allegation against the present applicant that he has either tampered the document or fraudulently used this document for obtaining the employment or for any other purpose. The allegation is made against the co-accused Raghunath Patel that he has impostered himself as applicant and used educational qualification documents of present applicant.

Thus, in my opinion, argument of applicant has substantial force. Accordingly, no case is made out against present applicant for framing charge under Sections 468 and 471 of the IPC. The charge framed by the order dated 29/06/2018 is set aside. The matter is remitted back to the learned Second Additional Sessions Judge, Umariya to reconsider the role of the applicant and if necessary re-frame the charge in accordance with law.

Criminal Revision is **allowed** to the extent indicated above.

(SUJOY PAUL)
JUDGE