

NON-REPORTABLE

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

CRIMINAL APPEAL NO(S). 1414 OF 2022
(Arising out of Special Leave Petition (Crl.) No(s). 11754/2019)

MUNNA PRASAD VERMA

....APPELLANT(S)

VERSUS

STATE OF U.P. & ANR.

....RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S). 1415 OF 2022
(Arising out of Special Leave Petition (Crl.) No(s). 2401/2020)

J U D G M E N T

Ajay Rastogi, J.

1. Leave granted.
2. The instant appeals are directed against the Order dated 23rd

October, 2019 dismissing the petitions filed at the instance of the appellants under Section 482 of the Code of Criminal Procedure, 1973(hereinafter being referred to as “CrPC”) praying for quashing of the charge-sheet no. 33-B/07 dated 31st July, 2009 arising out of Case Crime No. 128 of 2002 under Sections 419, 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860(hereinafter being referred to as the “IPC”), Police Station Kalwari, District Basti.

3. The brief facts of the cases are that one Brijendra Nath Mishra, who obtained B.Ed Degree dated 19th October, 1999 from Madan Mohan Malviya PG College, Deoria, which is affiliated to Gorakhpur University, on account of death of his father, submitted an application seeking compassionate appointment and on the basis of the education record, his application was considered by the Selection Committee in the meeting dated 19th September, 2000 and on being found eligible, the Selection Committee vide Resolution No. 19 recommended Brijendra Nath Mishra for appointment on compassionate grounds pursuant to which he was appointed on 22nd September, 2000 under dying in harness rules.

4. Respondent no. 2, de-facto complainant, lodged FIR on 27th

September, 2002 under Sections 419, 420, 467, 471 IPC against Brijendra Nath Mishra and members of the Selection Committee, who according to him, based on his forged marksheet of B.Ed degree, sought compassionate appointment with a further allegation that appointment was in collusion with the officers of the Committee and implicated the present appellants as they were the members of the Section Committee, on whose recommendations, appointment was made.

5. After the investigation, final report was filed by the Police on 4th November, 2003 but as per the directions of the learned Magistrate, several rounds of further investigation thereafter were held. At later stage, i.e., the third round of investigation, final report was filed, still on insistence of the complainant, Investigating Officer was changed and, thereafter, charge-sheet was filed on 31st July, 2009 implicating the appellants along with other persons for offence under Sections 419, 420, 467, 468, 471 and 120-B IPC and Crime No. 128 of 2002 was registered on which cognizance was taken by the learned Magistrate by an Order dated 4th August, 2009 that came to be challenged at the instance of the appellants by

filing of the petition under Section 482 CrPC for quashing for the cognizance against them.

6. It may be relevant to inform that, so far as Brijendra Nath Mishra, against whom there is an allegation of placing the alleged forged degree for seeking compassionate appointment is concerned, is facing trial which has to be examined on its own merits in accordance with law.

7. So far as the other two members of the Committee(Brij Bhushan Maurya and Paras Nath Chaudhary) are concerned, against whom cognizance was taken by the learned Magistrate and who had also preferred a special leave petition before this Court, unfortunately both have expired during pendency of the proceedings and by a separate order, the proceedings qua them have been dismissed as abated.

8. After we have heard learned counsel for the parties and having gone through the material on record with their assistance, we are of the view that there is no prima facie evidence on record which implicate the present appellants directly/indirectly connected to the commission of crime. It is not the case of the respondents that the

present appellants, in any manner, have facilitated Brijendra Nath Mishra either in creating or in fabricating the alleged forged degree of B.Ed for seeking compassionate appointment.

9. The present appellants are implicated, being the members of the Selection Committee, who relied on the documents placed on record without any verification on the assumption that the documents being genuine, recommended his case for appointment and because they are the members of the Selection Committee, that in itself would not, in any manner, implicate them in the commission of crime, in reference to which the learned Magistrate has taken cognizance and issued summons against them by an Order dated 4th August, 2009 in the instant proceedings, which, in our view, would be nothing but a clear abuse of the process of law.

10. Consequently, the appeals stand allowed and the criminal proceedings arising from Case Crime No. 128 of 2002 qua the appellants are quashed and set aside.

11. We make it clear that the present observations made are only confined to the disposal qua the instant appeals. The learned Magistrate may not be influenced by the observations made and

conclude the pending trial qua the co-accused(Brijendra Nath Mishra) on its own merits in accordance with law.

12. Pending application(s), if any, shall stand disposed of.

.....**J.**
(AJAY RASTOGI)

.....**J.**
(B.V. NAGARATHNA)

NEW DELHI;
SEPTEMBER 02, 2022.