

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.7008 OF 2019
(Arising out of SLP (Civil) No.25098/2012)

CENTRAL BUREAU OF
INVESTIGATION & ORS.

Appellants

VERSUS

ABHISHEK CHANDRA @ SACHIN
BESARYA & ORS.

Respondents

ORDER

Leave granted.

Respondent no.1 herein, a member of Indian Administrative Service, whose services were allocated to State of Tripura, was arrayed as accused in criminal proceedings initiated pursuant to FIR No.RC.15(S)/2005 dated 04.07.2007, Branch CBI/SCR-I/N, Delhi, for offences punishable under Sections 120-B read with 77, 420, 468, 471 IPC.

After due investigation, charge-sheet was filed vide Charge Sheet No.01/2007 dated 02.02.2007 in the Court of Additional Chief Metropolitan Magistrate, Karkardooma Court, Delhi. According to the charge-sheet:-

“4. The investigation has thus established that:-

(i) Dr. Pramod Chandra Bisaria (A-3) and Smt. Manjula Bisaria (A-5) knowingly and intentionally furnished false

information with regard to their Caste and Pramod Chandra Bisaria (A-3) furnished false affidavit in support of the application of his son Sachin Pramod Bisaria (Abhishek Chandra) (A-1) in the office of Executive Magistrate and Tehsildar, Pune City, Pune. Consequently, A-3 & A-5 cheated and dishonestly induced the office of Tehsildar, Pune City, Pune to issue Scheduled Caste Certificate No.7871/89 in favour of their son Sachin Pramod Bisaria (Abhishek Chandra) (A-1).

(ii) Pramod Chandra Bisaria (A-3), Late Vishavambhar Shiv Prasad Sharma (A-4) & Manjula Bisaria (A-5) entered into a criminal conspiracy and made false documents showing the caste of A-1 & A-2 as 'Hindu IBC-Bansor' while getting A-1 & A-2 admitted in the Maharana Pratap Vidyalaya, Jalgaon, in 1985. Later on, the caste of A-1 and A-2 was changed as 'Hindu/SC/BC-Bansor'. Thus, the seeds of criminal conspiracy were sown in 1985. The subsequent overt acts of the accused persons were in continuation of the same conspiracy.

(iii) Sachin Bisaria (Abhishek Chandra) (A-1) and Nitin Bisaria (Abhinav Chandra) (A-2) knowingly and intentionally furnished false information with regard to their caste and educational antecedents. A-1 and A-2 furnished copy of Scheduled Caste Certificate Nos.7871/89 and 7453/90 respectively to the Union Public Service Commission knowing fully well that they did not belong to Scheduled Caste and belonged to Hindu Kayastha Community (General Category) and, thus, they (A-1 & A-2) cheated and thereby dishonestly induced UPSC to appoint them to the Indian Administrative Service.

(iv) The surname of Sachin (A-1) and Nitin (A-2) was Bisaria till their admission at St. Vincent's School, Pune in Dec.1987. Thereafter, their surname was changed to Besarya between Dec. 1987 and March 1989. Sachin Bisaria (A-1) and Nitin Bisaria (A-2) deliberately changed their jname to Abhishek Chandra and Abhinav Chandra respectively to camouflage their actual caste.

5. The aforesaid acts of the accused Sachin Bisaria @ Abhishek Chandra (A-1) Nitin Pramod Bisaria @ Abhinav Chandra (A-2), late Dr. Pramod Chandra Bisaria (A-3), late Vishvambhar Shiv Prasad Sharma (A-4) & Mrs. Manjula Bisaria (A-5) constitute commission of offences punishable u/s 120-B r/w 177, 420, 468 & 471 of IPC and substantive Offices thereof.

6. As accused Dr. Pramod Chandra Bisaria (A-3) and Vishvambhar Shiv Prasad Sharma (A-4) have already expired, the charge against them abated. The remaining accused, namely, Sachin Pramod Bisaria @ Abhishek Chandra (A-1), Nitin Pramod Bisaria @ Abhinav Chandra (A-2) and Mrs. Manjula Bisaria (A-5) are liable for prosecution u/s 120-B r/w 177, 420, 468 & 471 of IPC and substantive Offences thereof. It is, therefore, prayed that they may kindly be tried according to law.”

In the meantime, Government of Tripura had issued a Memorandum/Show-Cause Notice to the respondent on 05.12.2005 calling upon to show cause why disciplinary action be not initiated against him for submission of a false caste certificate for getting appointment in the Indian Administrative Service which was followed by further memorandum dated 10.05.2006.

Thereafter, Writ Petition No.300 of 2007 was filed by respondent no.1 in Gauhati High Court seeking *inter alia* quashing of the Memoranda dated 05.12.2005 and 10.05.2006 issued by Government of Tripura and of the complaint leading to the filing of the aforesaid FIR and also the Charge-Sheet filed in pursuance of the investigation conducted by the petitioner in the matter.

The Writ Petition came to be allowed by the Single Judge of the High Court vide judgment and order dated 05.09.2011, which order is presently under appeal before us.

We have heard learned Counsel for the parties at some length, whereafter Mr. P.S. Patwalia, learned Senior Advocate appearing for respondent No.1 (original writ petitioner) submitted that his client be given liberty to withdraw the original writ petition itself letting all the legal processes to take place in consequence of such withdrawal.

We accept the prayer and permit the respondent (original writ petitioner) to withdraw Writ Petition No.300/2007 on the file of the Gauhati High Court. Consequently, the judgment and order dated 05.09.2011 passed by the Single Judge of the High Court stands set-aside.

We also pass the following directions:

- a) The criminal proceedings culminating in filing of Charge-Sheet No.01/2007 dated 02.02.2007 in the Court of Additional Chief Metropolitan Magistrate, Karkardooma Court, Delhi, shall now be dealt with by the concerned Court strictly in accordance with law;
- b) The Memoranda dated 05.12.2005 and dated 10.05.2006 issued by the Government of Tripura and the proceedings initiated pursuant thereto shall be processed with, after giving appropriate opportunity to the respondent to respond to the Memoranda.
- c) Even if the respondent had filed his response to the Memoranda earlier, he may file fresh response within two weeks from today, whereafter the matter may be decided by the concerned authorities in accordance with law.
- d) Both the proceedings shall be taken to logical conclusion without being influenced by any of the observations made by the High Court in the present matter.

We have not and shall not be taken to have expressed any opinion on the merits of the case, which shall be gone into at every stage purely in accordance with law.

With the aforesaid observations, the appeal stands disposed of.

No costs.

.....J.
[UDAY UMESH LALIT]

.....J.
[VINEET SARAN]

NEW DELHI;
SEPTEMBER 4, 2019

ITEM NO.12

COURT NO.7

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No.25098/2012

(Arising out of impugned final judgment and order dated 05-09-2011 in WP No.300/2007 passed by the Gauhati High Court)

CENTRAL BUREAU OF INVESTIGATION & ORS.

Petitioners

VERSUS

ABHISHEK CHANDRA @ SACHIN BESARYA & ORS.

Respondents

(IA No.116793/2019 - FOR CLARIFICATION/DIRECTION)

Date : 04-09-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. K.M. Nataraj, ASG
Mr. Akshay Amritanshu, Adv.
Mr. Rajan Kumar Chourasia, Adv.
Mr. Arvind Kumar Sharma, AOR

For Respondent(s) Mr. P.S. Patwalia, Sr. Adv.
Mr. Dhruv Sheoran, Adv.
Mr. Yati Sharma, Adv.
Ms. Srishti Sharma, Adv.
Mr. Ranjay Dubey, Adv.
Ms. Harshika Verma, Adv.
For Ms. Priya Puri, AOR

Mr. Shuvodeep Roy, AOR
Mr. Kabir Shankar Bose, Adv.
Mr. Sataroop Das, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of, in terms of the signed order.

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

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER