



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

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**CASE ANALYSIS ON THE TOPIC**  
**“ISSUING FALSE CERTIFICATE AND FABRICATING**  
**FALSE EVIDENCE”**  
**OF THE INDIAN PENAL CODE, 1860**

AUTHORED BY: ASHISH KUMAR YADAV  
& JAGATPAL CHOUDHARY

**1. Sukhbir Singh Badal v Balwant Singh Khera and Ors.**  
**(AIR 2023 SC 3053)**

**Decided On: 28<sup>th</sup> NOVEMBER 2023**

**1.1 Introduction of the Case:**

The case of Sukhbir Singh Badal v Balwant Singh Khera and Ors. (AIR 2023 SC 3053)<sup>1</sup>, SC held that for the offence of forgery, a false document must be made with intent to cause damage or injury to the public or any person. The complainant filed a complaint alleging that the accused had committed fraud, forgery, and cheating to obtain the registration of a political party.

The complainant claimed the accused had filed a false constitution with the Election Commission of India to gain recognition as a political party.

**The brief facts of the present case are:**

A private complaint was filed against Sukhbir Singh Badal, Sukhdev Singh Dhindsa and Daljit Singh Cheema for offences under Sections 463, 465, 466, 467, 468, 471. 191, 192 of the Penal Code, 1860 (IPC). Prakash Singh Badal was not arrayed as an accused in the said complaint. It was alleged that Prakash Singh Badal, the then President of the Shiromani Akali Dal (SAD), filed an affidavit with the Election Commission of India (ECI), stating that the SAD was adhering to the principles of secularism. Still, the said affidavit conflicted with the undertaking/affidavit given to the Gurudwara Election Commission (GEC). The earlier affidavit submitted to the GEC conformed with the Sikh Gurudwaras Act, 1925, which prescribes that

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<sup>1</sup> Sukhbir Singh Badal v Balwant Singh Khera and Ors. (AIR 2023 SC 3053)

only Sikhs can become voters or contest elections to the Shiromani Gurudwara Prabandhak Committee (SGPC). Therefore, it was alleged that the SAD had filed a false Constitution with ECI to gain recognition as a political party.

Thereafter, after a period of nine years, the complainant sought an amendment to the complaint, to add five persons as accused persons. Prakash Singh Badal was introduced as an accused after the said amendment to the complaint, and the Trial Court passed summoning orders on 04.11.2019, against the appellants to face the trial for the offences under Sections 420, 465, 466, 467, 468, 471 read with 120B IPC. Aggrieved by the summoning order, the appellants applied to the High Court under Section 482 CrPC to quash the complaint and the summoning order dated 04.11.2019.

### **1.2 Sections of Law involved:**

The sections of law involved in the present case are:

- Indian Penal Code 1860, (IPC) – Section 415<sup>2</sup>
- Indian Penal Code, 1860 (IPC) - Section 420<sup>3</sup>
- Representation of the People Act, 1951 - Section 29A<sup>4</sup>
- Indian Penal Code, 1860 (IPC) - Section 463<sup>5</sup>
- Code of Criminal Procedure, 1973 (CrPC) - Section 482<sup>6</sup>
- Indian Penal Code, 1860 (IPC) - Section 192<sup>7</sup>
- Code of Criminal Procedure, 1973 (CrPC) - Section 202<sup>8</sup>

### **1.3 Name of the Judge & Advocates:**

The name of the Hon'ble Judge who delivered judgment in the present case is:

- Justice MR Shah
- Justice C.T. Ravikumar
- The name of the advocate who represented the appellant is:
- Advocate K.V. Viswanathan,

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<sup>2</sup> The Indian Penal Code, 1860, § 415, No. 45, Acts of Parliament, 1860 (India).

<sup>3</sup> The Indian Penal Code, 1860, § 420, No. 45, Acts of Parliament, 1860 (India).

<sup>4</sup> Representation of the People Act, 1951, § 29A, No. 43, Act of Parliament, 1951 (India).

<sup>5</sup> The Indian Penal Code, 1860, § 463, No. 45, Acts of Parliament, 1860 (India).

<sup>6</sup> The Code of Criminal Procedure, 1973, § 482, No. 2, Acts of Parliament, 1973 (India).

<sup>7</sup> The Indian Penal Code, 1860, § 192, No. 45, Acts of Parliament, 1860 (India).

<sup>8</sup> The Code of Criminal Procedure, 1973, § 202, No. 2, Acts of Parliament, 1973 (India).

- Senior Advocate R.S. Cheema,
- Advocate Gore, Sandeep Kapur,
- Advocate Tarannum Cheema,
- Advocate Virinder Pal Singh Sandhu
- The name of the advocate who represented the respondent is:
- Advocate Indira Unninayar, AOR

#### **1.4 Judgement of Trial Court:**

learned Sessions Court came to be dismissed, observing that the revision is not maintainable against an interlocutory order and that no order has been passed by the learned Trial Court on the application dated 06.04.2011 of the complainant regarding not pursuing the complaint against them.

the learned Trial Court held the inquiry under Section 202 Cr.P.C. and recorded the statement of the concerned witnesses.

The Supreme Court had in November stayed proceedings in the matter before a Punjab court, and issued notice. High Court had dismissed the revision application and refused to quash the criminal proceedings and the summoning order. Thus, aggrieved by the High Court's order, the appellants filed an appeal before the Court. Shri Parkash Singh Badal, one of the accused, was added as an accused in an amendment. The High Court dismissed the revision application and refused to quash the criminal proceedings and summoning order<sup>9</sup>.

#### **1.5 Final Judgement:**

The court allowed the appeals and quashed the impugned judgment and order passed by the High Court. The court held that the ingredients of the offenses were not made out, even assuming the complaint's averments to be true. The court found that the summoning order was vitiated due to the lack of mandatory inquiry under Section 202 of the Code of Criminal Procedure<sup>10</sup>.

The Court referred to the relevant provisions of the IPC and said that the allegations made in the complaint were not at all appreciable. The Court said that the ingredients for the offence of

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<sup>9</sup> Sukhbir Singh Badal v Balwant Singh Khera and Ors. (AIR 2023 SC 3053), 4.

<sup>10</sup> <https://www.sconline.com/blog/post/2023/05/01/supreme-court-quashes-cheating-forgery-case-against-prakash-singh-badal-sukhbir-singh-badal-legal-news/>

cheating were not satisfied and there was no question of deceiving any person, fraudulently and dishonestly. As far as the offence under Section 465 was concerned, the Court said that for the offence of forgery, there must be the making of a false document with intent to cause damage or injury to the public or to any person. Therefore, making false documents is sine qua non; in the present case, no false document was produced<sup>11</sup>.

Further, the Court said that according to the complainant, a claim was made at the time of the registration of the Party that it had adopted a memorandum accepting secularism; however, making a false claim and producing a false document is distinct. The Court also said that on a plain reading, no case was made out for the offences under Sections 466, 467, and 468 of the IPC<sup>12</sup>. Thus, the Court said that if the criminal proceedings against the appellants were continued as per the summoning order, it would abuse the process of law.

Therefore, the entire criminal proceedings against the appellants were quashed along with the summons passed by the Trial Court. The Court also observed that it had not expressed anything on the Constitution of the SAD and that the Court's order shall not affect the pending proceedings before the High Court of Delhi against the order of the ECI on SAD's registration.

Thus, the Court allowed the appeals and set aside the order passed by the High Court wherein the appellant's revision application was dismissed.

Looking to the averments and allegations in the complaint and even the material/evidence collected/ recorded during the course of the inquiry and even assuming the complaint's averments to be true, the ingredients of the offence punishable Under Sections 420, 465, 466, 467, 468, 471 are not at all made out.

### **1.6 Conclusion / Ratio Propounded:**

The case of Sukhbir Singh Badal v Balwant Singh Khera and Ors. (AIR 2023 SC 3053)<sup>13</sup>, the court allowed the appeals and quashed the criminal proceedings and summoning order. The court found that the offenses of cheating and forgery were not made out and that the summoning order

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<sup>11</sup> Sukhbir Singh Badal v Balwant Singh Khera and Ors. (AIR 2023 SC 3053), 6.

<sup>12</sup> Sukhbir Singh Badal v Balwant Singh Khera and Ors. (AIR 2023 SC 3053), 10.

<sup>13</sup> Sukhbir Singh Badal v Balwant Singh Khera and Ors. (AIR 2023 SC 3053)

was vitiated<sup>14</sup>. The court held that the complaint was filed belatedly and was an abuse of process of law and court<sup>15</sup>.

In the present case, no false document has been produced. What was produced was the Memorandum, and no other documents were produced. Even according to the original complainant, the Memorandum and the claim made at the time of registration of the Party that it has adopted a Memorandum accepting secularism, the same was contrary to the Constitution of the Party produced before the Gurudwara Election Commission. Making a false claim and creating and producing a false document are both different and distinct.

For the offence of forgery, a false document must be made with intent to cause damage or injury to the public or any person.

## **2. Indian Oil Corporation Ltd. Vs. Rajendra D. Harmalkar** **(2022 SCC ONLINE SC 486)**

**DECIDED ON- 21<sup>st</sup> APRIL 2022**

### **2.1 Introduction of the Case:**

In the case, Indian Oil Corporation Ltd. Vs. Rajendra D. Harmalka (2022 SCC ONLINE SC 486),<sup>16</sup> the Supreme Court of India dealt with the issue of disciplinary action against an employee for producing a false and forged SSLC (Secondary School Leaving Certificate). The employee was dismissed from service by the Disciplinary Authority, and the High Court interfered with the punishment imposed by the Disciplinary Authority, directing the reinstatement of the employee without back wages or benefits.

The Supreme Court held that producing a false certificate is grave misconduct and justified the punishment of dismissal imposed by the Disciplinary Authority. The Court observed that the High Court erred in considering the punishment of dismissal to be disproportionate to the misconduct established and proved. It emphasized that the Tribunal should only usually interfere with the quantum of punishment imposed by the employer if an appropriate case is made out.

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<sup>14</sup> *Id.*

<sup>15</sup> <https://www.barandbench.com/news/litigation/supreme-court-quashes-cheating-forgery-case-former-punjab-cm-parkash-singh-badal-son-sukhbir-singh-badal>

<sup>16</sup> Indian Oil Corporation Ltd. Vs. Rajendra D. Harmalkar (2022 SCC ONLINE SC 486)

The Court also referred to the case of Hombé Gowda Educational Trust and another v. State of Karnataka and others<sup>17</sup>, where it was held that the Tribunal should follow the decisions of the Supreme Court applicable to the facts of the case and not ignore the ratio laid down by the Supreme Court.

**The brief facts of the present case are:**

**The facts leading to the present appeal in a nutshell are as follows:**

That the respondent herein original writ petitioner was initially appointed in the year 1982 as a casual employee, he moved an application seeking the position of Refueling Helper, wherein under the heading of qualifications, he mentioned that he passed Secondary School Leaving Certificate (hereinafter referred to as “SSLC”) in April 1986 from Karnataka Secondary Education Board. He was thereafter appointed as Helper as per the regularization policy, regularizing the casual employees, inter alia, subject to the contents prescribed in the application form for employment being correct. At that stage, the original writ petitioner submitted SSLC of Karnataka Board bearing No. 206271 dated 19.05.1986.

The Manager, ER, thereafter requested the authorities of the Secondary Board to check their records and confirm whether they had issued any marks certificate carrying details available on the photocopy of the SSLC marks sheet. In response to the same, the Board informed the authority that “as per the record, SSLC statement of marks for the year March 1986 bearing Registration No. 206271 relate to one Agrahar Jayant S/o Satyanarayana A.L. DOB - 15.02.1968 and does not belong to Rajendra Dattaram Harmalkar S/o Datta Ram Harmalkar, DOB - 08.12.1962”.

In the above circumstances, a departmental inquiry was initiated against the original writ petitioner.

**2.2 Sections of Law involved:**

The sections of law involved in the present case are:

- **Indian Penal Code 1860, (IPC) - Sections 468<sup>18</sup>**
- **Indian Penal Code 1860, (IPC) – Section 471<sup>19</sup>**

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<sup>17</sup> Hombé Gowda Educational Trust and another v. State of Karnataka and others (2006) 1 SCC 430

<sup>18</sup> The Indian Penal Code, 1860, § 468, No. 45, Acts of Parliament, 1860 (India).

<sup>19</sup> The Indian Penal Code, 1860, § 471, No. 45, Acts of Parliament, 1860 (India).

- **Indian Penal Code** 1860, (IPC) – **Section 197**<sup>20</sup>
- The Constitution of India – Article 226<sup>21</sup>

### **2.3 Name of the Judges & Advocates:**

The name of the Hon'ble Judges who delivered judgment in the present case is:

- Justice MR Shah
- Justice B.V. Nagarathna

The name of the advocate who represented the appellant is:

- Advocate Rajiv Shukla

The name of the advocate who represented the respondent is:

- Advocate Suruchi Suri

### **2.4 Judgement of Trial Court & High Court:**

The original writ petitioner was served with the charge sheet containing two charges, which read as follows:

- “1. Wilful insubordination or disobedience, whether or not in combination with another, of any lawful and reasonable order of a superior.
2. Giving false information regarding one's age, father's name, qualifications or previous service at the time of employment.<sup>22</sup>”

The High Court also observed that the petitioner had been out of service from the year 2006 and, as the counsel for the petitioner, had made a statement that he would forgive his back wages and promotion, by the impugned judgment and order the High Court allowed the said writ petitioner and the directed the appellant to reinstate the original writ petitioner from the date of dismissal from service in the post of Refueling Helper, however without any back wages or benefits.

It appears that the High Court has denied the back wages and other benefits and has ordered reinstatement on a concession given by the learned counsel on behalf of the original writ

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<sup>20</sup> The Indian Penal Code, 1860, § 197, No. 45, Acts of Parliament, 1860 (India).

<sup>21</sup> INDIA CONST. art. 226.

<sup>22</sup> Indian Oil Corporation Ltd. Vs. Rajendra D. Harmalka (2022 SCC ONLINE SC 486), 2.

petitioner<sup>23</sup>.

## 2.5 Final Judgement

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 29.06.2015 passed by the High Court of Judicature at Bombay at Goa in Writ Petition No. 660 of 2013 by which the High Court has partly allowed the said writ petition preferred by the respondent herein (hereinafter referred to as the “original writ petitioner”) directing the petitioner herein to reinstate the original writ petitioner without any back wages and other benefits by substituting the punishment of dismissal imposed by the Disciplinary Authority, the employer - Indian Oil Corporation Ltd. has preferred the present appeal.

The High Court, in exercising its powers under Article 226<sup>24</sup> of the Constitution of India, exceeded its jurisdiction by interfering with the order of punishment imposed by the Disciplinary Authority. The Appellant argues that the High Court's decision to reinstate the original writ Petitioner without back wages and other benefits should be quashed and set aside.

The court observed that: “The question is one of a TRUST. How can an employee who has produced a fake and forged marksheet/certificate, that too, at the initial stage of appointment, be trusted by the employer? Whether such a certificate was material or not and/or had any bearing on the employment is immaterial. The question is not of having an intention or mens rea. The question is producing the fake/forged certificate. Therefore, in our view, the Disciplinary Authority was justified in punishing dismissal from service.<sup>25</sup>”

Because of the above and for the reasons stated above, the impugned judgment and order passed by the High Court interfered with the order of punishment imposed by the Disciplinary Authority of dismissing the original writ petitioner from service and ordering reinstatement without back wages and other benefits is hereby quashed and set aside. The order passed by the Disciplinary Authority dismissing the original writ petitioner from service on the misconduct proved is hereby restored.

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<sup>23</sup> Indian Oil Corporation Ltd. Vs. Rajendra D. Harmalka (2022 SCC ONLINE SC 486), 5.

<sup>24</sup> INDIA CONST. Art. 226.

<sup>25</sup> <https://www.sconline.com/blog/post/2022/04/26/fake-certificate-dismissal-service-punishment-law-supreme-court-judgment-legal-research-news-updates/>

The Court also observed that the High Court gave no specific reasoning on how the punishment imposed by the Disciplinary Authority could be said to be shockingly disproportionate to the misconduct proved. “As per the settled position of law, unless and until it is found that the punishment imposed by the Disciplinary Authority is shockingly disproportionate and/or there is procedural irregularity in conducting the inquiry, the High Court would not be justified in interfering with the order of punishment imposed by the Disciplinary Authority which as such is a prerogative of the Disciplinary Authority.<sup>26</sup>”

#### Reasoning:

Indian Oil Corporation Ltd. v. Rajendra D. Harmalkar (2022 SCC ONLINE SC 486)<sup>27</sup>: This judgment is directly applicable to the user's current legal question as it analyzes the case in detail and provides the reasoning behind the Supreme Court's decision to uphold the punishment of dismissal imposed by the Disciplinary Authority for producing a false and forged SSLC.

#### **2.6 Conclusion / Ratio Propounded:**

In this case, the disciplinary authority dismissed the accused from service for producing a forged certificate of educational qualification. It was argued by the accused that no age limit or educational qualification was used to secure a job or promotion. The intention to submit forged documents was only to maintain records. The High Court of Bombay acknowledged this argument and declared the action of the disciplinary authority as disproportionate. Conversely, the Supreme Court observed that the question is not of intention or mens rea but of trust. This is grave misconduct, and whether the certificate has any bearing on employment is immaterial. It accordingly quashed the Bombay High Court and justified the disciplinary authority's decision of dismissal from service.

By concluding the decision, it relied upon the decision of this Court in the case of Om Kumar v. Union of India, (2001) 2 SCC 386<sup>28</sup>; Union of India v. G. Ganayutham, (1997) 7 SCC 463<sup>29</sup>, it is submitted that while interfering with the order of punishment imposed by the Disciplinary Authority the High Court has exceeded in its jurisdiction while exercising its powers under

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<sup>26</sup> *Id.*

<sup>27</sup> Indian Oil Corporation Ltd. v. Rajendra D. Harmalkar (2022 SCC ONLINE SC 486)

<sup>28</sup> Om Kumar v. Union of India, (2001) 2 SCC 386

<sup>29</sup> Union of India v. G. Ganayutham, (1997) 7 SCC 463

Article 226<sup>30</sup> of the Constitution of India. It is submitted that as per the settled position of law, unless there is a procedural irregularity in conducting the disciplinary proceedings and/or the punishment imposed is shockingly disproportionate to the proved misconduct, then only, the High Court can exercise powers under Article 226<sup>31</sup> of the Constitution of India and interfere with the order of punishment imposed by the Disciplinary Authority.

### **3. Premlata v State of Rajasthan**

#### **(1997 SCC ONLINE RAJ 325)**

**DECIDED ON- 18<sup>th</sup> NOVEMBER 1997**

##### **3.1 Introduction of the Case:**

The case of Premlata v. State of Rajasthan (1997 SCC ONLINE RAJ 325),<sup>32</sup> Rajasthan High Court, involves allegations of using a false certificate to establish eligibility for a teaching position. The accused, Smt. Premlata and the headmaster of the school, Shri Pradeep, were charged with offences under Sections 198, 420, 465, 468, 471, and 120B of the Indian Penal Code.

##### **The brief facts of the present case are:**

The applications were invited from the candidates by Mahila Vikas Abhikaran, Dungarpur, for appointment as “Pracheta”. According to the notification, only those candidates were eligible who belonged to one of the five categories mentioned in the notification. The petitioner, Smt. Premlata was one of those candidates who applied for the post.

Feeling aggrieved by the framing of the charges, Smt. Premlata had filed this petition under Section 482, Cr.P.C., praying that the charges against her should be quashed. The Director of Zila Mahila Vikas Abhikaran, sent a first information report to the police based on the allegations. The investigation revealed that the certificate on which Smt. Premlata established that Shri Pradeep issued her eligibility, which contained false information.

The charges against Smt. Premlata were framed, and she filed a petition under Section 482 of

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<sup>30</sup> INDIA CONST. Art. 226.

<sup>31</sup> *Id.*

<sup>32</sup> Premlata v. State of Rajasthan (1997 SCC ONLINE RAJ 325)

the Criminal Procedure Code seeking to quash the charges. The learned Chief Judicial Magistrate stated charges against Smt. Premlata and Shri Pradeep. The petition filed by Smt. Premlata sought to quash the charges against her. The High Court, after hearing the arguments, dismissed the petition.

### **3.2 Sections of Law involved:**

The sections of law involved in the present case are:

- Indian Penal Code 1860, (IPC) - Section 197<sup>33</sup>
- Indian Penal Code 1860, (IPC) - Section 198<sup>34</sup>
- Indian Penal Code 1860, (IPC) - Section 420<sup>35</sup>
- Code of Criminal Procedure, 1973 (CrPC) - Section 161<sup>36</sup>
- Code of Criminal Procedure, 1973 (CrPC) - Section 482<sup>37</sup>
- Indian Penal Code 1860, (IPC) - Section 471<sup>38</sup>
- Indian Penal Code 1860, (IPC) - Section 474<sup>39</sup>

### **3.3 Name of the Judge & Advocates:**

The name of the Hon'ble Judge who delivered judgment in the present case is:

- Justice A.K. Singh

The name of the advocate who represented the appellant is:

- Advocate A.K. Rajvanshy

The name of the advocate who represented the respondent is:

- Public Prosecutor Chandralekha

### **3.4 Judgement of Trial Court:**

The Trial Court had framed charges against the Petitioner for offences of criminal conspiracy, possession of a document knowing it to be forged and intending to use it as genuine, using as

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<sup>33</sup> The Indian Penal Code, 1860, § 197, No. 45, Acts of Parliament, 1860 (India).

<sup>34</sup> The Indian Penal Code, 1860, § 198, No. 45, Acts of Parliament, 1860 (India).

<sup>35</sup> The Indian Penal Code, 1860, § 420, No. 45, Acts of Parliament, 1860 (India).

<sup>36</sup> The Code of Criminal Procedure, 1973, § 161, No. 2, Acts of Parliament, 1973 (India).

<sup>37</sup> The Code of Criminal Procedure, 1973, § 482, No. 2, Acts of Parliament, 1973 (India).

<sup>38</sup> The Indian Penal Code, 1860, § 471, No. 45, Acts of Parliament, 1860 (India).

<sup>39</sup> The Indian Penal Code, 1860, § 474, No. 45, Acts of Parliament, 1860 (India).

genuine forged document or electronic record, cheating and dishonestly inducing delivery of property, and offences against marriage.

After hearing the arguments of both parties, the learned Chief Judicial Magistrate, Dungarpur, framed charges under Sections 120B and 466, I.P.C. against Pradeep. Charges under Sections 120B, 474, 471, 420 and 198, I.P.C. were framed against Smt. Premlata. Feeling aggrieved by the framing of the charges, Smt. Premlata had filed this petition under Section 482, Cr.P.C., praying that the charges against her should be quashed.

### **3.5 Final Judgement:**

The statement recorded putting of signatures by co-accused on the certificate amounted to an admission of contents written in the certificate, and, therefore, the contents of the certificate had not been forged. However, they may need to be corrected. Therefore, Sections 474 and 471, I.P.C. against the petitioner are hereby quashed, and charges under Sections 120B, 420 and 198, I.P.C. were framed correctly.

The petition is partly allowed. A bare perusal of Section 197, I.P.C. shows that the certificate dealt with by this Section must be a certificate which is required by law to be given or signed or is relating to any fact of which such certificate is by law admissible in evidence<sup>40</sup>.

And, therefore, so far as the signatures of the headmaster and certificate are concerned, no forgery appears to have been committed. Section 464, I.P.C. is, therefore, not applicable to this document and consequently, the charges under Sections 474 and 471, I.P.C. cannot be said to be prima facie made out. Section 198, I.P.C. does not describe the certificate the use of which is made punishable by it. There is a substantial distinction between a mere statement in writing not amounting to a certificate contemplated by Section 197, I.P.C. and a statement in writing amounting to a certificate contemplated by Section 197, I.P.C. the distinction between the two; the statements in writing not amounting to certificate and the statement in writing amounting to a certificate is this that the former cannot be treated as legal evidence of the facts mentioned in the certificate<sup>41</sup>.

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<sup>40</sup> <sup>40</sup> Premlata v. State of Rajasthan (1997 SCC ONLINE RAJ 325), 3.

<sup>41</sup> <https://indiankanoon.org/doc/1214742/>

Still, the written statement that amounts to a certificate can be used as legal evidence of the facts mentioned in the certificate<sup>42</sup>. Keeping this distinction between the two statements in writing, one can be used as legal evidence without formal proof, and the other cannot be used as legal evidence unless formal proof is given according to law. The statement is subjected to scrutiny by cross-examination, or otherwise, it would be proper to hold that no statement in writing can amount to a certificate within the meaning of Section 197, I.P.C. unless the law enacted by a competent legislature permits the issue of such certificate or provides that the certificate shall be receivable as legal evidence of the facts mentioned therein<sup>43</sup>.

The fact that the document is described as a certificate does not make it a certificate in the eye of the law<sup>44</sup>. That being the legal position, the certificate dated 28-9-1989 could not be used as legal evidence to prove that Smt. Premlata fulfilled the eligibility clause contained in the notification.

However, Smt. Premlata cannot avoid the responsibility under Section 198, I.P.C., for using this certificate. So far as charge under Section 420, I.P.C. is concerned prima facie, it appears that Smt. Premlata wanted employment as “Pracheta”. For the reasons mentioned above, under Section 420, I.P.C. cannot be quashed at this stage. Therefore, the charge under Section 120B, I.P.C. cannot be quashed at this stage.

### **3.6 Conclusion / Ratio Propounded:**

In the case of *Premlata v. State of Rajasthan* (1997 SCC ONLINE RAJ 325),<sup>45</sup> the High Court of Rajasthan considered the evidence and allegations against Smt. Premlata and Shri Pradeep. The court found sufficient material to frame charges against them under Sections 120-B and 466 of the Indian Penal Code.

The court's decision to dismiss the petition seeking to quash the charges indicates that it found the evidence against Smt. Premlata and Shri Pradeep are to be sufficient to proceed with the trial. This case serves as a precedent for similar cases involving allegations of using false certificates or documents to establish employment or other benefits eligibility. It is important to

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<sup>42</sup> *Id.*

<sup>43</sup> *Premlata v. State of Rajasthan* (1997 SCC ONLINE RAJ 325), 5.

<sup>44</sup> *Id.*

<sup>45</sup> *Premlata v. State of Rajasthan* (1997 SCC ONLINE RAJ 325).

note that this analysis is based solely on the information provided in the legal document. For a comprehensive understanding of the case, it is recommended to refer to the complete judgment and consult with legal professionals.

The Honorable Justice noted that the “Court shall quash charges framed against accused in the absence of corroborative evidence of the law.”

#### **4. Baban Singh and Ors v Jagdish Singh and Ors**

**(AIR 1967 SC 68)**

**DECIDED ON- 08<sup>th</sup> February 1966**

##### **4.1 Introduction of the Case:**

A piece of evidence is rightly regarded as an essential element of law. It is generally known as a proof legally present at a trial, which is supposed to convince the judge based on the material facts of a case. However, quite often false evidence is fabricated, with the aim of diverting the verdict. The present case deals with one such incident.

##### **The brief facts of the present case are:**

Jagdish Singh and Parmhans were appellants in F.A. 301 of 1952 in the High Court at Patna. Mst. Dharichhan Kuer was respondent No. 13 in that appeal. During the pendency of the appeal a compromise was said to have been arrived at between Dharichhan Kuer on the one hand and Jagdish Singh and Parmhans on the other. Dharichhan Kuer and Jagdish Singh swore an affidavit on June 22, 1953 in support of the petition for compromise which was filed in the High Court. Baban Singh's brother identified Dharichhan Kuer before the Oath Commissioner and Rs. 4,000 were paid to Dharichhan Kuer under the terms of the compromise in the Commissioner's presence. Dharichhan Kuer also passed a receipt and her thumb impression was identified by Baban Singh's brother. The petition of compromise was filed in court on July 13, 1953. The same day Baban Singh swore an affidavit (Ex. B) denying the compromise or that his wife had received Rs. 4,000. This affidavit was filed in the High Court on July 31, 1953. On September 9, 1953 Dharichhan Kuer also filed an affidavit (Ex. A) in support of her 13-09-2023 (Page 1 of 4) www.manupatra.com Gujarat National Law University husband. 3. As the compromise was in dispute the High Court ordered the Registrar to hold an enquiry. Nine witnesses were examined on behalf of Jagdish Singh and Parmhans including the Oath Commissioner. Dharichhan Kuer and her husband Baban Singh have evidence on their own behalf. The

Registrar reported on July 14, 1954 that the compromise was genuine and that Dharichhan Kuer had, in fact, sworn the affidavit before the Oath Commissioner and had received Rs. 4,000. B. N. Rai and Kanhaiya Singh, JJ. accepted the report by their order dated October 5, 1956. One of the terms of the compromise was that if Dharichhan Kuer resiled from it the amount of Rs. 4,000 would be refunded with costs Rs. 500.

#### **4.2 Sections of Law involved:**

The sections of law involved in the present case are:

- **Indian Penal Code 1860, (IPC) – Section 191<sup>46</sup>**
- **Indian Penal Code 1860, (IPC) – Section 192<sup>47</sup>**
- **Indian Penal Code 1860, (IPC) – Section 199<sup>48</sup>**
- **Code of Criminal Procedure, 1973 (CrPC) – Section 476<sup>49</sup>**
- **Code of Criminal Procedure, 1973 (CrPC) – Section 477<sup>50</sup>**
- **Code of Criminal Procedure, 1973 (CrPC) – Section 478<sup>51</sup>**
- **Code of Criminal Procedure, 1973 (CrPC) – Section 479<sup>52</sup>**
- **Code of Criminal Procedure, 1973 (CrPC) – Section 479A<sup>53</sup>**
- **Code of Criminal Procedure, 1973 (CrPC) – Section 479 A(6)<sup>54</sup>**

#### **4.3 Name of the Judge & Advocates:**

The name of the Hon'ble Judge who delivered judgment in the present case is:

- Justice K. Subba Rao
- Justice R.S. Bachawat
- Justice M. Hidayatullah

The name of the advocate who represented the appellant is:

- Advocate Naunit Lal

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<sup>46</sup> The Indian Penal Code, 1860, § 191, No. 45, Acts of Parliament, 1860 (India).

<sup>47</sup> The Indian Penal Code, 1860, § 192, No. 45, Acts of Parliament, 1860 (India).

<sup>48</sup> The Indian Penal Code, 1860, § 199, No. 45, Acts of Parliament, 1860 (India).

<sup>49</sup> The Code of Criminal Procedure, 1973, § 476, No. 2, Acts of Parliament, 1973 (India).

<sup>50</sup> The Code of Criminal Procedure, 1973, § 477, No. 2, Acts of Parliament, 1973 (India).

<sup>51</sup> The Code of Criminal Procedure, 1973, § 478, No. 2, Acts of Parliament, 1973 (India).

<sup>52</sup> The Code of Criminal Procedure, 1973, § 479, No. 2, Acts of Parliament, 1973 (India).

<sup>53</sup> The Code of Criminal Procedure, 1973, § 479A, No. 2, Acts of Parliament, 1973 (India).

<sup>54</sup> The Code of Criminal Procedure, 1973, § 479-A(6), No. 2, Acts of Parliament, 1973 (India).

The name of the advocate who represented the respondent is:

- Advocate Afzal Ansari
- Advocate Rakesh Kumar Singh

#### **4.4 Judgement of Trial Court & High Court:**

There was no trial court judgment and This is an appeal under section 476-B<sup>55</sup> of the Code of Criminal Procedure by one against a judgment and order of the High Court at Patna. The learned Judges in the High Court did not take action in respect of the offence of giving false evidence on oath, as defined in Section 191 and punishable under Section 193 of the Indian Penal Code, because they were of the opinion that Section 479-A of the Code of Criminal Procedure would be applicable to that offence even though the Registrar recorded evidence. The High Court selected for action the offence in relation to the two affidavits holding that prima facie an offence under Section 199, Indian Penal Code was committed. That offence is also punishable in the same manner as if false evidence was given. The difference between Sections 191 and 199 is this; Section 191 deals with statements and declarations falsely made by a person legally bound by an oath or by an express provision of law to state the truth. Section 199 deals with statements and declarations made voluntarily provided they are capable of being used as evidence and which the court is bound to receive as evidence.

#### **4.5 Conclusion / Ratio Propounded:**

Does the swearing of the false affidavits amount to an offence under Section 199, Indian Penal Code or under either Section 191 or 192, Indian Penal Code ? If it comes under the two latter sections, the present prosecution cannot be sustained, Section 199 deals with a declaration and does not state that the declaration must be on oath. The only condition necessary is that the declaration must be capable of being used as evidence and which any court of justice, public servant, or other person, is bound or authorised by law to receive as evidence. Section 191 deals with evidence on oath and Section 192 with fabricating false evidence. If we consider this matter from the standpoint of Section 191, Indian Penal Code the offence is constituted by swearing falsely when one is bound by oath to state the truth because an affidavit is a declaration made under an oath. The definition of the offence of giving false evidence thus applies to the affidavits. The offence may also fall within Section 192. It lays down inter alia that a person is said to fabricate false evidence if he makes a document containing a false statement intending that such

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<sup>55</sup> The Code of Criminal Procedure, 1973, § 476-B, No. 2, Acts of Parliament, 1973 (India).

false statement may appear in evidence in a judicial proceeding and so appearing in evidence may cause any person who, in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding.

## **5. Subhash Kashinath Mahajan v The State Of Maharashtra and Ors.**

### **AIR2018SC1498**

**Decided on: 20<sup>th</sup> March, 2018**

#### **5.1 Introduction of the Case:**

The case of Subhash Kashinath Mahajan v The State of Maharashtra and Ors. to prevent the misuse of the Act by Dalits and other SC and ST people. This verdict led to protests in various states of the country by Dalit groups who showed disregard for the said judgment. This judgment is a landmark judgment in the history of the era. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 Act was enacted to safeguard the Scheduled Castes and Scheduled Tribes people from different types of discrimination and atrocities and other problems they are facing in society. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 Act was enacted to safeguard the Scheduled Castes and Scheduled Tribes people from different types of discrimination and atrocities and other problems they are facing in society. It is only possible to arrest a public employee with the appointing authority's consent. Arresting a non-public employee is only permitted with the Superintendent of Police's consent. The approving authority must document the justifications for such approvals. The Magistrate must carefully review these recorded grounds before approving additional detention. Before filing FIRs under the Act, Dy.S.P. level police officers must conduct an initial investigation to determine whether the claims are baseless or unfounded.

#### **The brief facts of the present case are:**

The accused in this case, the appellant, is charged with violating the Indian Penal Code of 1860, Sections 182, 192, 193, and 219 read with 34, as well as Sections 3(1)(ix), 3(2)(vi), and 3(2)(vii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. (IPC). He was the State of Maharashtra's Director of Technical Education in the relevant period. 2. The complaint, the second respondent, works for the department. He was assigned to the Pune-based Government Distance Education Institute. His seniors, Drs. Satish Bhashe and Kishor Burade, who do not belong to the scheduled caste, wrote a negative entry in his annual confidential report regarding his honesty and character. 3. On January 4, 2006, he filed a formal complaint with the

Karad Police Station under the Act against the two officers in question. 4. On December 21, 2010, the concerned Investigating Officer submitted an application to the Director of Technical Education seeking sanctions against them under Section 197 Cr.P.C. 5. On January 20, 2011, the appellant rejected the punishment. As a result, a C Summary Report was submitted against Bhise and Burade, but the court rejected it. He then filed the current FIR against the appellant. The complainant argues that the Director of Technical Education lacked the authority to issue or withhold sanction because the two individuals in question are Class-I officers and only the State Government has the authority to do so. Thus, in his view, the appellant violated the charges made in the FIR dated March 28, 2016, by improperly handling the sanction issue. 6. The High Court rejected the appellant's request to have the aforementioned complaint quashed.

### **5.2 Sections of Law involved:**

The sections of law involved in the present case are:

- **Indian Penal Code 1860, (IPC) – Section 191<sup>56</sup>**
- **Indian Penal Code 1860, (IPC) – Section 192<sup>57</sup>**
- **Indian Penal Code 1860, (IPC) – Section 193<sup>58</sup>**
- **Indian Penal Code 1860, (IPC) – Section 26<sup>59</sup>**
- Code of Criminal Procedure, 1973 (CrPC) – Section 182<sup>60</sup>
- Code of Criminal Procedure, 1973 (CrPC) – Section 192<sup>61</sup>
- Code of Criminal Procedure, 1973 (CrPC) – Section 197<sup>62</sup>
- Code of Criminal Procedure, 1973 (CrPC) – Section 468<sup>63</sup>
- Code of Criminal Procedure, 1973 (CrPC) – Section 492<sup>64</sup>
- Code of Criminal Procedure, 1973 (CrPC) – Section 498-A<sup>65</sup>

### **5.3 Name of the Judge & Advocates:**

The name of the Hon'ble Judge who delivered judgment in the present case is:

- Justice Adarsh Kumar Goel

<sup>56</sup> The Indian Penal Code, 1860, § 191, No. 45, Acts of Parliament, 1860 (India).

<sup>57</sup> The Indian Penal Code, 1860, § 192, No. 45, Acts of Parliament, 1860 (India).

<sup>58</sup> The Indian Penal Code, 1860, § 193, No. 45, Acts of Parliament, 1860 (India).

<sup>59</sup> The Indian Penal Code, 1860, § 26, No. 45, Acts of Parliament, 1860 (India).

<sup>60</sup> The Code of Criminal Procedure, 1973, § 182, No. 2, Acts of Parliament, 1973 (India).

<sup>61</sup> The Code of Criminal Procedure, 1973, § 192, No. 2, Acts of Parliament, 1973 (India).

<sup>62</sup> The Code of Criminal Procedure, 1973, § 197, No. 2, Acts of Parliament, 1973 (India).

<sup>63</sup> The Code of Criminal Procedure, 1973, § 468, No. 2, Acts of Parliament, 1973 (India).

<sup>64</sup> The Code of Criminal Procedure, 1973, § 492, No. 2, Acts of Parliament, 1973 (India).

<sup>65</sup> The Code of Criminal Procedure, 1973, § 498-A, No. 2, Acts of Parliament, 1973 (India).

- Justice U.U. Lalit

The name of the advocate who represented the appellant is:

- Advocate Maninder Singh
- Advocate Amarendra Sharan
- Advocate Amit Anand Tiwari

The name of the advocate who represented the respondent is:

- Advocate Neelesh Singh Rao
- Advocate C. George Thomas

#### **5.4 Judgement of Trial Court & High Court:**

Respondent No. 2 sought sanction for his prosecution under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and for certain other connected offences. The quashing of the said complaint has been declined by the High Court. *Dr. Satish Bhise* and *Dr. Kishor Burade*, who were his seniors but non-scheduled caste, made an adverse entry in his annual confidential report to the effect that his integrity and character was not good. The High Court rejected the petition. In the facts and circumstances, inherent power to quash could not be exercised as it may send a wrong signal to the downtrodden and backward sections of the society. It was submitted by learned amicus that FIR was lodged after five years of the order passed by the appellant. One sided version, before trial, cannot displace the presumption of innocence. Learned amicus submitted that this Court has generally acknowledged the misuse of power of arrest and directed that arrest should not be mechanical. It has been laid down that the exercise of power of arrest requires reasonable belief about a person's complicity and also about need to effect arrest. Learned amicus further submitted that Section 18 of the Atrocities Act, which excludes Section 438 Cr.P.C., violates constitutional mandate under Articles 14 and 21 and is ultra vires the Constitution. The learned Counsel added a new dimension to the argument by invoking Article 21 of the Constitution. She had made a complaint against him for her sexual harassment and as a reaction, the FIR was lodged by respondent No. 2 by way of the Atrocities Act. Her anticipatory bail application was rejected by the session court but the High Court, vide order dated 23rd November, 2017, granted interim protection against arrest.

### **5.5 Conclusion / Ratio Propounded:**

Proceedings in the present case are clear abuse of process of court and are quashed. To avoid false implication of an innocent, a preliminary enquiry may be conducted by the DSP concerned to find out whether the allegations make out a case under the Atrocities Act and that the allegations are not frivolous or motivated. The appeal is accordingly allowed in the above terms.

## **6. State of Punjab and Ors. v Amritsar Beverages Ltd. and Ors.**

**(AIR2006SC2820)**

**Decided on – 8<sup>th</sup> August, 2006**

### **6.1 Introduction of the Case:**

A raid was conducted in the premises of the respondent, during which a large number of books and documents were seized by the officers of the Sales Tax Department of the State of Punjab. The seizure of documents was done under Section 14(3) of the Act. The officers of the Sales Tax Department asked the Respondents to appear on several occasions so as to enable them to verify the contents thereof. Cooperation from the Respondents was not forthcoming as a result whereof the documents were not returned within the period stipulated thereunder.

The brief facts of the present case are:

The facts leading to the present appeal in a nutshell are as follows:

In this case, a raid was conducted in the respondent's premises, who within the meaning of the Punjab General Sales Tax, 1948 stands to be a dealer. The raid was conducted by the officers from the Sales Tax Department of the State of Punjab. During the raid, the officers seized a large number of books and documents such as registers and cashbook ledger. All these files were stored on a hard disk.

The power for the seizure of documents exercised by the authorities was granted under Sec 14 of the Punjab General Sales Tax, 1948. The section talks about Production and Inspection of Books, Documents and Accounts. According to Sec 14 (3) of the said Act, the officer shall immediately provide a receipt for seizing the documents, books, registers and accounts. It also mentions the periods within which the files should be returned, which is 10 days for accounts, register, book or documents and 60 days in any other case.

The respondent was asked to put in an appearance several times by the officers of the Sales Tax Department so as to enable themselves to verify the contents in the hard disk. But the respondent did not cooperate resulting in the delay in the return of the documents and books.

The respondent then filed a writ petition and prayed the court to issue a writ in/of the nature of mandamus asking to direct the officers to return the seized documents, books, accounts and hard disk (in which all of these files were stored). The court applied the principle of literal interpretation and mandamus was issued, along with that Rs. 2,500 was imposed in each case. It was also stated that the costs would not be paid by the State exchequer but by the officers who withheld the accounts, documents etc.

### **6.2 Sections of Law involved:**

The sections of law involved in the present case are:

- **Indian Penal Code 1860, (IPC) – Section 29<sup>66</sup>**
- **Indian Penal Code 1860, (IPC) – Section 167<sup>67</sup>**
- **Indian Penal Code 1860, (IPC) – Section 172<sup>68</sup>**
- **Indian Penal Code 1860, (IPC) – Section 192<sup>69</sup>**
- **Indian Penal Code 1860, (IPC) – Section 463<sup>70</sup>**
- **Indian Penal Code 1860, (IPC) – Section 464<sup>71</sup>**

### **6.3 Name of the Judge & Advocates:**

- The name of the Hon'ble Judge who delivered judgment in the present case is:
  - Justice S.B. Sinha
  - Justice Dalveer Bhandari
- The name of the advocate who represented the appellant is:
  - Advocate Sarup Singh
  - Advocate R.K. Pandey
  - Advocate Arun Kumar Sinha
- The name of the advocate who represented the respondent is:

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<sup>66</sup> The Indian Penal Code, 1860, § 29, No. 45, Acts of Parliament, 1860 (India).

<sup>67</sup> The Indian Penal Code, 1860, § 167, No. 45, Acts of Parliament, 1860 (India).

<sup>68</sup> The Indian Penal Code, 1860, § 172, No. 45, Acts of Parliament, 1860 (India).

<sup>69</sup> The Indian Penal Code, 1860, § 192, No. 45, Acts of Parliament, 1860 (India).

<sup>70</sup> The Indian Penal Code, 1860, § 463, No. 45, Acts of Parliament, 1860 (India).

<sup>71</sup> The Indian Penal Code, 1860, § 464, No. 45, Acts of Parliament, 1860 (India).

- Advocate Vikas Mahajan
- Advocate Bhaskar Y. Kulkarni

#### **6.4 Judgement of Trail Court & High Court:**

The court observes that the said Act was enacted in 1948 and since then there has been a lot of development in information technologies with the emergence of the internet and other devices. The technologies also brought with them problems in the field of law that could not have been foreseen earlier, one such example would be determining the statutory liabilities in this case. The difficulties faced by the officers in this case to tackle the new circumstance could also have been avoided. Even though the amendments in the Information Technology Act, 2000 tried to include different types of cybercrimes but could not deal with all the problems that came in front of the officers. And even though there were amendments made to Sec 14 of the said Act, the court thinks that creative interpretation should be allowed owing to the circumstances. To execute the provisions of Sec 14, many difficulties must have arisen for the officers. After the examination and taking copies of the documents and files, it is mandatory for the officers to return these files to the dealer within a period of sixty days. But in this case, it was required to make a copy of the files on the hard disk and also to get the copy verified, the respondents were asked to verify the copy but they still need to do it. In order to attach the provisions of sub-section (3) of Sec 14, the respondent's active cooperation was required. When it comes to the hard disk, complying with the literal interpretation of the provision was impossible. It can be said that the Respondent's non-cooperation did not prevent the officers from making copies of the files from the hard disk or getting a hard copy of the files so as to affix it with the official seal and signatures. But the High court did notice that the officers faced this problem for the first time and they might have failed to lay down their own procedure. To avoid the complications that arose regarding the seizure of the hard disk, according to the respondent's offer their representative should make themselves available while obtaining the respondent's signature on the receipt or on the hard disk copies. The court decided to set aside the previous judgement, according to which the officers were asked to pay the costs from their pockets and appeal was allowed to the extent discussed.

#### **6.5 Conclusion / Ratio Propounded:**

The development in informational technology has been fast-paced since the time of its inception. The internet and other technologies have revolutionised each and every part of your life

unexpectedly. One such aspect of your life is law, which is equally impacted by these developments. This case manages to bring the question into a discussion with just an issue of the hard disk, which in 2021 is already outdated. Today, we also have the option to store the information virtually in cloud storage allowing us to access our files from any place and any device, which could allow the offender to modify the files in the devices that may be seized.

Therefore, it is very important not just for ourselves but for the various sectors of society to adapt and develop according to these fast-paced technological developments. The said Act, in this case, was enacted in 1948, the sector of information technology was not even known then. One can only imagine the developments that have happened since then in this sector, making it crucial for the lawmakers and executors to adapt and work while keeping that in mind and the present case is the example for it, the judges gave the verdict by being cognizant regarding the aforesaid issue and allowed different interpretations of the provision in the discussion. The court stated that even if amendments have been made to cope with the IT developments, procedural laws should be understood as ongoing statutes like the constitution and different or creative interpretations should be allowed according to the situation

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