

**:::BEFORE:::
HON'BLE MR. JUSTICE NANI TAGIA
ORDER**

29.08.2019

Heard Mr. J. Jini, learned counsel for the petitioner. Also heard Mr. J. Tsering, learned Additional Public Prosecutor, representing State respondent No. 1 and Mr. M. Kato, learned counsel for the respondent No. 2.

The challenge made in this Criminal Petition is the order dated 12.06.2017, passed by the learned Chief Judicial Magistrate, Lower Subansiri District, Ziro in G.R. Case No. 75/2012 arising out of Ziro P.S. Case No. 63/2012 under Sections 467/468/469 IPC, by which order, charges under Sections 467/468 IPC have been framed against the accused/petitioner.

The case against the accused/petitioner came to be registered on an FIR dated 14.08.2012, lodged by one Sandeep Singh, the respondent No. 2 herein, before the Officer-in-Charge, Ziro Police Station, against the accused/petitioner alleging that he had availed a personal loan from the State Bank of India, Ziro, on the basis of Irrevocable Letter of Authority of Mr. Sandeep Singh, Major Officer Commanding, 85 RCC (GREF), C/o 99 APO, Pine Grove, Ziro, the employer of the accused petitioner, by forging the signature and seal of Mr. Sandeep Singh. On the basis of the aforesaid FIR dated 14.08.2012, a case being Ziro P.S. Case No. 63/2012 under Sections 467/468/469 IPC was registered and on completion of the investigation, Charge-Sheet was filed against the accused petitioner by the Investigating Authority in the aforesaid Ziro P.S. Case No. 63/2012, which is correspondent to G.R. Case No. 75/2012. The Charge-Sheet so filed by the Investigating Authority was taken cognizance of by the learned Chief Judicial Magistrate, Ziro and by an order dated 12.06.2017, charges under Sections 467/468 IPC was framed against the accused/petitioner.

Assailing the impugned order dated 12.06.2017, passed by the learned Chief Judicial Magistrate, Ziro, the accused/petitioner contends that the learned Chief Judicial Magistrate, Ziro, by the impugned order dated 12.06.2017, could

not have framed the charges against the petitioner under Sections 467/468 IPC without obtaining a prosecution sanction under Section 197 Cr.P.C., as the petitioner is working as a Junior Engineer (Civil) in the Office of HQ 85 RCC (GREF) under the Border Roads Organization and as such, he is a public servant within the meaning of Section 21 of the IPC.

Section 197 of the Cr.P.C. mandates obtaining a prosecution sanction from the competent authority before taking cognizance of the offence by the Court, if the offence alleged to have been committed by the accused is done while acting or purporting to act in discharging of his official duty. Section 197 of the Cr.P.C., therefore, comes into play or would be applicable only when the offence alleged to have been committed by the accused could be construed to have done in discharge of the official duty.

In the instant case, the allegation against the accused petitioner is that the accused petitioner obtained personal loan from the State Bank of India, Ziro, on the basis of Irrevocable Letter of Authority purported to be issued by the complainant/respondent No. 2/employer of the accused/petitioner which according to the complainant/respondent No. 2/employer is under the signature of the complainant/respondent No. 2/employer, which, however, was not correct; rather the said irrevocable letter of authority was submitted in the bank for the purpose of obtaining loan by forging the signature of the complainant/respondent No. 2/employer. The alleged act of forging the signature of the employer/respondent No. 2 by the accused petitioner, in the considered view of the Court, cannot be termed as an act done by the accused petitioner in discharge of his official duty and therefore, prosecution sanction under Section 197 Cr.P.C., in the present case, would not be necessary.

Accordingly, I do not find any legal infirmity in the impugned order dated 12.06.2017, passed by the learned Chief Judicial Magistrate, Lower Subansiri District, Ziro in G.R. Case No. 75/2012 arising out of Ziro P.S. Case No. 63/2012 under Sections 467/468/469 IPC and the same is dismissed being devoid of merit.

The Criminal Petition stands disposed of.

JUDGE

