

CNR No.DLCT12-000061-2020

Cr. C. No. 1/2021

State Vs. Hans Raj Hans

PS Kanjhawala

25.08.2021

In view of Office Order no.569/RG/DHC/2021 dated 19.08.2021 of Hon'ble High Court of Delhi present proceeding is being conducted through Video Conferencing.

Present: Sh. Ratnesh Kumar Gupta Ld. APP for the State.

Sh. Vikram Dua Ld. Counsel for complainant.

Sh. Neeraj, Sh. Amit Tiwari and Sh. Vijay Joshi Ld counsels for accused Hans Raj Hans alongwith accused Hans Raj Hans.

Further arguments are advanced on the point of notice.

Put up for orders at 4:00 p.m.

(Dharmender Singh)

ACMM-04/RADC/New Delhi

25.08.2021

It is 4:00 p.m.

Present: None

Vide separate order, accused is discharged.

Subject to filing of bail bond and surety bond u/s 437 (A) Cr.PC, his bail bond already on record are cancelled. File be consigned to the Record Room after due compliance.

(Dharmender Singh)

ACMM-04/RADC/New Delhi

25.08.2021

**IN THE COURT OF SH. DHARMENDER SINGH:
LD. ACMM-04, ROUSE AVENUE COURTS, NEW DELHI.**

CNR No.DLCT12-000061-2020

Cr. C. No. 1/2021

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ORDER

Vide this order I shall decide the issue whether prima facie case is made out or not against accused for framing of notice of accusation u/s 251 Cr.PC against him.

Arguments have already been heard. Record perused.

In the present matter, complaint was filed by complainant Sh. Rajesh Liloithia against accused Sh. Hans Raj Hans mentioning therein that accused contested the Lok Sabha Election in the year 2019 from North West Delhi Constituency and at the time of filing of nomination form he furnished false information in affidavit/Form 26 and he did not disclose the material facts in the same. It is stated that accused did not give the correct information regarding his educational qualifications, financial status of his wife, income of his dependents and regarding holding of office in National Safai Karamchari Commission.

In view of his complaint, direction was given by the court to police to lodge a NCR u/s 155 Cr.PC and matter be investigated.

In pursuance of the order of the court, matter was investigated by police and charge sheet was filed against accused qua offence u/s 125 A, Representation of People Act. On the basis of charge sheet, cognizance of offence was taken and accused was summoned to face trial.

After charge sheet, supplementary charge sheet was also filed.

On appearance of accused, bail was granted and provisions of Section 207 Cr.PC were also complied.

After that arguments were heard on the point of notice of accusation.

As per case of prosecution, in his affidavit/Form-26 accused did not give correct information regarding the educational qualifications. It is alleged that in said affidavit, he has stated his educational qualification as "MATRIC" however, he further pursued the studies and passed "PREP" (equivalent to 11th class) from DAV College, Jalandhar. As per the directions of the court report was called by IO from concerned institution, however, as per said report accused did not pass "PREP" from said college so, it is clear that accused has given the correct information regarding his educational qualifications in his affidavit/Form-26.

As per prosecution, accused did not furnish the correct information regarding the financial status of his wife in affidavit/Form-26. It is alleged that on the one hand accused has stated in affidavit/Form-26 that his wife is a house-wife however, on the other hand income tax dues have been shown in the relevant column against the name of wife of accused.

During arguments, Ld. Counsel for accused has submitted that said dues/liability is on account of capital gains which accrued to the wife of accused on account of sale of immovable property. It is also submitted that wife of accused is neither in any employment nor is doing any business. The prosecution did not dispute the said submission of Ld. Counsel for accused. Even no document has been filed on record to show that wife of accused is in employment or is doing any business.

As per prosecution, accused did not give correct information regarding his dependents and their income. It is alleged that accused has two sons and they are part of the joint family of accused and accused has not mentioned anything about their income in his affidavit/Form-26.

During arguments, Ld. Counsel for accused has submitted that both of his sons are not dependent upon him and they have their own source of income. It is further submitted that as per the requirement of affidavit/Form-26 a candidate is required to mention the income or assets of his dependents. This court is of the considered view that perusal of Form-26/Affidavit filed by accused shows that he has not mentioned his sons as dependents in said document and as per said document, there is

no requirement to mention the assets or income of such child who is not dependent upon a candidate. Except the allegations, no material has been brought on record on behalf of prosecution to prove that both sons of accused are dependent upon him.

As per prosecution, accused has not mentioned in affidavit/Form-26 the fact that he was holding the post of Vice Chairman in National Safai Karamchari Commission and remuneration received from said post. This court is of the considered view that as per the record filed on behalf of Investigating Officer, accused had resigned from said post in April 2019 and as per prosecution he filed the nomination after the resignation from said post so, as per the requirement of Form-26/Affidavit it was not required to mention the office from which a candidate had resigned. Perusal of Form-26/affidavit shows that a candidate is required to mention his income and movable and immovable assets and is not required to separately mention the remuneration which has been received by him in the past.

In view of the above reasons, no prima facie case is made out against accused and accordingly, proceedings against him are stopped and he is discharged. File be consigned to the Record Room after due compliance.

**Announced in open court
on 25.08.2021**

**(Dharmender Singh)
ACMM-04/RADC/New Delhi**