

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 708 of 2016**

- Mohan Lal Sahu S/o Heeru Ram Sahu, aged about 53 years, R/o village Nawagaon (Kandel), Post Office & Police Station - Arjuni, District - Dhamtari (C.G.)

----Applicant**Versus**

1. Tejram Sahu S/o Rewaram Sahu, aged about 46 years, R/o village Nawagaon (Kandel), Post Office & Police Station - Arjuni, District - Dhamtari (C.G.) (Accused No.1). Present R/o Sanjay Nagar Ward, Kurud, District Dhamtari (C.G.)
2. Rameshwar Sahu S/o Rewaram Sahu, aged about 39 years.
3. Jagdish Ram Sahu S/o Ghasiram Sahu, aged about 55 years.
Both R/o village Nawagaon (Kandel), Post Office & Police Station - Arjuni, District Dhamtari (C.G.)
4. State of Chhattisgarh Through : The District Magistrate, Dhamtari, District - Dhamtari (C.G.)

---- Respondents

For Applicant	:	Shivendu Pandya, Advocate.
For Respondent 1 to 3	:	Shri R.K. Pali, Advocate.
For State/Respondent 4	:	Shri Vaibhav Goverdhan, P.L.

Hon'ble Shri Justice Pritinker Diwaker**Hon'ble Shri Justice Rajendra Chandra Singh Samant****Order On Board****By Pritinker Diwaker, J.****02/02/2017**

Heard on admission.

01. The present Revision petition is directed against the judgment and order dated 25.11.2014 passed by the Additional Sessions Judge (FTC), Dhamtari, in Cr.A. No.45/2013 affirming the judgment and order dated 25.05.2013 passed by Chief Judicial Magistrate, Dhamtari in Criminal Case No.183/2013 acquitting respondents 1, 2 and 3 of the charges under Sections 420, 464, 468, 467 and 471 of the Indian Penal Code.

02. On 04.01.2011, a written report (Ex.P/2) was lodged by the applicant alleging in it that he had taken policy from an insurance agent respondent No.1-Tejram Sahu in the year 2002. According to the applicant, he could pay only five installments of the premium but thereafter on account of his poor financial condition he could not pay rest of the premium and, therefore, he requested respondent No.1 for surrendering his insurance policy. Further case of the applicant is that respondent No.1-Tejram Sahu informed him that the bonds have been misplaced, therefore, the applicant is required to file affidavit before the Insurance Company to that effect and for this on a blank stamp paper the signatures of the applicant as well as his son Durga Prasad were obtained. According to the complainant, instead of using the document (blank stamp paper) for filing affidavit the same has been used for preparation of receipt mentioning therein that the applicant has received back the amount of Rs.1,93,572/- which he gave to respondent No.2 for purchasing agricultural land. Upon receiving the written complaint (Ex.P/2), F.I.R. (Ex.P/10) was registered against the private respondents under Sections 420, 467, 468 and 474 IPC.

03. After investigation, charge sheet was filed against the accused persons under Sections 420, 467, 468 and 474 IPC. Court below however framed the charge against the accused persons under Sections 420, 464, 468, 467 and 471 IPC.

04. So as to hold the accused/respondents 1, 2 and 3 guilty, the prosecution examined as many as 12 witnesses. Statements of the accused persons were also recorded under Section 313 of Cr.P.C. in which they denied the circumstances appearing against them in the prosecution case, pleaded innocence and false implication. The accused persons examined four defence witnesses in support of their

case.

05. Vide judgment and order dated 25.05.2013 the trial Magistrate has recorded the acquittal of respondents 1 to 3. The judgment of the trial Court has been duly affirmed by the appellate Court vide impugned judgment dated 25.11.2014, hence this revision.

06. Counsel for the applicant submits that :-

- both the Courts have erred in law by ignoring the evidence adduced by the prosecution;
- signature of the applicant was taken by respondent No.1-Tejram Sahu by fraud on the assurance of filing affidavit before the Insurance Company for obtaining insurance document;
- the applicant has been cheated yet the accused persons have been acquitted of all the charges.

07. On the other hand, supporting the impugned judgment it has been argued by private respondents that both the Courts below have duly considered the entire evidence adduced by the parties and came to the conclusion that allegations levelled by the complainant are not correct. He submits that the concurrent finding recorded by the Courts below cannot be interfered with. The report was lodged by the complainant after inordinate delay of 10 years and, therefore, the Courts below were justified in acquitting the private respondents.

08. State counsel has duly assisted the Court.

09. We have heard learned counsel for the parties and perused the material available on record.

10. Undisputedly, the report lodged by the complainant was delayed

by 11 years and no plausible explanation has been offered by him in his evidence to substantiate his case. Furthermore, the Court below has duly considered the statements of Durga Prasad (PW/1), Mohan Lal Sahu (PW/2), Ramdas (PW/3) and Kunwar Singh Dhruv (PW/7). Considering the statements of these witnesses, the Court below has arrived at a conclusion that the prosecution has utterly failed to prove its case beyond shadow of reasonable doubt. After due appreciation of the evidence available on record, the trial Court has acquitted accused/respondents 1, 2 & 3 and the appellate Court has affirmed the finding recorded by the trial Court. The view taken by both the Courts below is one of the possible and plausible view. The prosecution utterly failed in proving its case beyond reasonable doubt and they are fully justified in recording the finding of acquittal which is based on proper appreciation of evidence available on record. Even otherwise, it is settled legal position that if two reasonable conclusions are possible on the basis of evidence available on record, the higher Court shall not interfere with the finding recorded by the Court below. In the present case also the view taken by the Courts below cannot be called as perverse and is one of the possible and plausible view.

11. Accordingly, the revision preferred by the applicant/complainant is bereft of any substance, the same is liable to be and is hereby dismissed at the admission stage itself.

Sd/-

(Pritinker Diwaker)

JUDGE

Sd/-

(R.C.S. Samant)

JUDGE