

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1242 of 2000****Judgment reserved on 08.08.2018****Judgment delivered on 12.11.2018**

1. State of Madhya Pradesh (Now Chhattisgarh)

---- Appellant**Versus**1. Khunnalal, aged about 33 years, son of Chhiddilal Arya,
R/o Namankala, Agricultural Department, O/o the Deputy
Director, Ambikapur, District Sarguja, MP (Now CG)**---- Respondent**

For Appellant/State:

Ms. K. Tripti Rao, PL

For Respondent/accused:

Shri Adil Minhaj, Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor**CAV Judgment**

This appeal has been filed by the State against the judgment dated 11.08.1999 passed by Judicial Magistrate First Class, Ambikapur in Criminal Case No. 317/1998 acquitting the accused/respondent of the charge under Section 420 IPC.

2. Facts of the case in brief are that the respondent/accused had taken Rs. 22,000/- from Parmender (PW-1) and Rs. 31,500/- from Tapeswar (PW-2) who were prosecuting their studies by staying at Ambikapur, in the name of providing employment and when they demanded back the money, he kept on beguiling on some pretext or the other. Payment by PW-1 and PW-2 is said to have been made to the respondent/accused in the presence of B.K. Rajwade (PW-6),

Ram Prasad (PW-5), Sukhnandan (PW-4) and Ganesh (PW-3). Ultimately when the job as promised was not provided nor the money was returned, a written report (Ex.P-1) was lodged at Police Station, Ambikapur and based on that FIR (Ex.P-2) was registered against the respondent/accused for an offence under Section 420 IPC. After investigation, the challan was filed by the police under Section 420 IPC followed by framing of charge accordingly.

3. So as to hold the accused/respondent guilty, prosecution has examined 07 witnesses in support of its case. Statement of the accused/respondent has also been recorded under Section 313 of the Code of Criminal Procedure in which he denied the allegations made against him and pleaded innocence and false implication in the case.

4. After hearing the parties the Court below has acquitted the accused/respondent of the charge levelled against him and therefore, the State has preferred this appeal against the judgment of acquittal.

5. Counsel for the appellant/State submits that the Court below has committed an error of law in acquitting the respondent/accused of the charge levelled against him by ignoring the evidence adduced by the prosecution.

6. Counsel for the respondent however has supported the judgment impugned.

7. Heard counsel for the parties and perused the material on record.

8. Though PW-1 and PW-2 have made an allegation that respondent/accused took some money from them for the purpose

of securing employment yet they have not produced any document such as receipt etc. to establish their stand. Further, the material on record also suggests that PW-1 and PW-2 were the neighbours of the respondent/accused and being so they are supposed to know whether he was in a position to keep his promise for which money is alleged to have been given by them. More importantly, PW-1 and PW-2 are not illiterate, rather they are the full grown boys in their mid-twenties prosecuting higher studies and therefore, they should have been aware that giving money to secure employment by hook or crook is also a crime, and if they remained ignorant and gave money knowing it to be an offence, law can not help them. In such a situation, the acquittal awarded to the respondent/accused by the Court below does not appear to suffer from any vice. Furthermore, the law holding the field that if the material on record spells of two possible and plausible views, the one standing in favour of the accused has to prevail, also comes to the protection of the respondent/accused.

9. In view of what has been discussed above, this Court finds no substance in the appeal preferred by the State against the judgment of acquittal, and accordingly the same is hereby dismissed. Judgment impugned is affirmed.

Sd/-

(Vimla Singh Kapoor)
Judge