

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 125 of 2005

Order reserved on 29.08.2018

Order pronounced on 19.11.2018

Jaipal Sahu S/o Ram Dayal Sahu, aged about 35 years, Secretary,
Gram Panchayat, Chirpani, Post – Kodma, Godan, Police Station –
Kukdoor, Tahsil – Pandaria, District – Kabirdham, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, through District Magistrate, Kabirdham
(Kawardha).

---- Respondent

For Applicant : Shri R.K. Pali, Advocate

For State/ Respondent : Smt. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V Order

The accused / applicant has preferred this revision petition against the judgment of conviction and order of sentence dated 08.02.2005 passed by Sessions Judge, Kabirdham (Kawardha) in Criminal Appeal No. 124/2003 modifying the judgment dated 18.08.2003 passed by Judicial Magistrate First Class, Kawardha, in Criminal Case No. 94/2003. By Judgment dated 18.08.2003 learned Magistrate had convicted the accused/applicant under Sections 467, 466, 420, 468 & 474 IPC and sentenced him to undergo RI for one year and six months with fine of Rs. 500/- under each section. However, in appeal, Learned Lower Appellate Court has acquitted the accused/applicant of the offences punishable under sections 466 & 474 IPC, but affirmed the conviction under other sections. Hence this revision.

2. The accused/applicant herein was the secretary of Gram Panchayat Chhirpani and one Doman Singh was its Sarpanch at the relevant time. It is the case of the prosecution that on 05.01.2001 the applicant got a withdrawal form for Rs. 3,900/- signed by the Sarpanch towards social security pension to be

given to the beneficiaries, 26 in number, but thereafter he fabricated the same by making certain manipulations in the withdrawal slip and thereby withdrew an amount of Rs. 30,900/- in place of 3,900/-. When the Sarpanch came to know about this excess withdrawal and asked the accused/applicant as to how that had happened, he could not give any satisfactory answer to the same. Thereafter the matter was reported to the police and subsequently after investigation the challan was filed.

3. On being satisfied with the averments of the parties and evidence on record the trial Court convicted and sentenced the accused/applicant as mentioned above. The findings recorded by the trial Court have been modified by the lower appellate Court acquitting the accused/applicant under Section 466 & 474 IPC and keeping his conviction and sentence under other sections intact by the Judgment impugned, and it is that which is under challenge in this revision.

4. Learned counsel for the accused/applicant submits that the applicant has been falsely implicated in the case in hand and that as he has been acquitted by the Court below under Sections 466 and 471 IPC on the basis of same set of evidence, he deserve to be acquitted under other sections also because no extra evidence to this effect has been adduced by the prosecution. He further submits that there is no document suggesting any forgery committed by the accused/applicant.

5. State counsel however, supports the findings recorded by the Court below.

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

7. From the evidence of PW-4 duly corroborated by PW-5 and PW-6 it is apparent that the accused/applicant made manipulations in the withdrawal slip filled and signed by the Sarpanch of concerned Gram Panchayat and thereby withdrew an excess amount of Rs. 27,000/-. The said withdrawal slip showing the amount to be withdrawn as Rs. 30,900/- was seized under Ex. P-6. In fact, the amount to be withdrawn for being given as Social Security Pension to the beneficiaries was Rs. 3,900/- but the applicant herein made it to be 30,900/- by resorting to manipulation therein. Thus, there is ample evidence to show the involvement of

the accused/applicant under Sections 467, 468 and 420 IPC and there is no substance in the argument of the counsel for the applicant that acquittal of the applicant under Sections 466 and 474 will inure the same benefit under other Section also.

8. Thus, in view of the factual discussion made above in the light of the evidence of the witnesses, this Court is of the opinion that the Court below was fully justified in holding the accused/applicant guilty as described above, and being so, the same is hereby maintained.

9. Revision therefore being without any substance is liable to be dismissed and it is hereby dismissed.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan