

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Criminal Revision No. 308 of 2006**

Sant ram S/o. Kashiram Verma, Aged about 44 years, R/o. Ward No. 7, Shankarpur, Tahsil and District Rajnandgaon (C.G.)

**---- Applicant**

Versus

State of Chhattisgarh,

**---- Respondent**

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For Applicant : Mr. Rakesh Thakur, Advocate.

For Respondent : Mr. Gary Mukhopadhyay, G.A.  
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**Hon'ble Smt. Justice Vimla Singh Kapoor**

**Order on Board**

**12.12.2018**

By the judgment under challenge passed on 13.02.2006 by Sessions Judge Rajandgaon, in Criminal Appeal No. 13 of 2005, the findings recorded by the learned Judicial Magistrate First Class, Rajnandgaon, have been modified.

2. Facts of the case, in short, are that in the year 1991-92 the complainant Kumbhalal (PW-2) was posted as peon in the Dongargarh hospital and since he was a temporary employee, he along with other ones who were employed temporarily were retrenched. When the government started proceedings for taking such employees back into the employment for which interviews were to be held on 04.11.2001 at Raipur, co-accused Mahendra

took Rs. 75,000/- from him and assured of taking him back in the job. Since the complainant could not be taken back in service, co-accused Mahendra took him to the present applicant introducing him to be an IAS officer for the purpose. This time again Rs. 75,000/- were paid by the complainant. Thus, the complainant paid total sum of Rs. 1,50,000/- for getting back the employment. Ultimately, when the complainant neither got the employment nor the refund of the amount so paid, he chose to make a written complaint to the Superintendent of Police, Rajnandgaon. Meanwhile, on account of an agreement with the complainant, co-accused Mahendra was given a clean chit and thus absolved of the act alleged. However, the accused/applicant herein has been convicted by the trial Court under Section 420 IPC which on appeal has been confirmed also with certain modification in the sentence part.

**3.** Learned Magistrate having perused the material before it convicted the accused/applicant 420 IPC and sentenced him to undergo RI for two years with fine of Rs. 5000/-. On appeal, the conviction has been maintained but the sentence has been reduced to 10 months 25 days from that of two years i.e. the period for which he has already remained in jail. Hence, this revision.

**4.** Counsel for the applicant submits that the Courts below have committed an error in convicting and sentencing the accused/applicant as mentioned above though the evidence led by the prosecution was lacking and therefore, the same may be set aside.

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

**6.** Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

**7.** From the evidence of complainant (PW-1), (PW-3) and (PW-5), it is clear that the applicant had played the role for which he was not legally entitled i.e. for providing the complainant the government job back and thus cheated him and committed the offence under Section 420 IPC. Even the witnesses in whose presence the payment was made to the applicant, remained firm in their version from beaming to end that the complainant had been subjected to cheating by the accused/applicant. In this view of the matter, this Court is of the opinion that the conviction recorded by both the Courts below as described above is strictly on the basis of evidence on record and there is nothing worth interference with the same. Conviction is thus maintained.

**8.** As regards sentence, the accused/applicant appears to have completed the entire sentence imposed upon him by the lower Appellate Court and therefore, this point too does not require any deliberation by this Court. Being so, the revision is hereby dismissed.

**9.** However, looking to the peculiarity of the fact involved, this Court feels it necessary to observe that the conviction of

applicant shall not affect his carrier ahead – service or political as the case may be.

Sd/-

**(Vimla Singh Kapoor)**

JUDGE

Jyotishi/Santosh