

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Judgment reserved on 25/07/2018**

**Judgment delivered on 14/08/2018**

**CRR No. 633 of 2018**

- Rameshwar Prasad S/o Vachanram Aditya, Aged About 60 Years  
By Caste Kehra, R/o Village Oddekera, Thana Jaijaipur, Tahsil  
Jaijaipur, District Janjgir Champa Chhattisgarh. (Complainant),  
District : Janjgir-Champa, Chhattisgarh

**---- Applicant**

**Versus**

1. Bhojram S/o Vachanram Aditya Aged About 66 Years R/o Village  
Oddekera, Thana Jaijaipur, Tahsil Jaijaipur, District Janjgir  
Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
2. Smt. Deepmala D/o Bhojram Aditya, Aged About 35 Years R/o  
Village Oddekera, Thana Jaijaipur, Tahsil Jaijaipur, District Janjgir  
Champa Chhattisgarh. Current Address Smt. Deepmal W/o Satish  
Shrimore Janjgir, Beside Bhima Talab, Kahrpara, Janjgir, Thana  
And Tahsil Janjgir, District Janjgir Champa Chhattisgarh., District :  
Janjgir-Champa, Chhattisgarh
3. Dhan Singh S/o Budhram, Aged About 49 Years R/o Village  
Oddekera, Thana Jaijaipur, Tahsil Jaijaipur, District Janjgir  
Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
4. Dorilal S/o Late Devi Prasad, Aged About 71 Years By Caste  
Sharma, R/o Kusmool, Thana - Dabra, Tahsil - Dabra, District  
Janjgir Champa Chhattisgarh. (Accused), District : Janjgir-  
Champa, Chhattisgarh

5. State Of Chhattisgarh, Through District Magistrate, Janjgir, District Janjgir Champa Chhattisgarh. (Prosecutor), District : Janjgir-Champa, Chhattisgarh

---- Respondents

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For Appellant : Shri Parag Kotecha, Advocate

For the State/Respondent No. 5 : Shri V. Goverdhan, Panel Lawyer

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**Hon'ble Shri Justice Pritinker Diwaker**

**Hon'ble Shri Justice Gautam Chourdiya**

**By Justice Gautam Chourdiya**

1. This revision filed on behalf of the complainant arises out of the judgment dated 12.03.2018 passed by 2<sup>nd</sup> Additional Sessions Judge, Sakti, District- Janjgir-Champa in Criminal Appeal No. 01/2018, affirming acquittal judgment of Judicial Magistrate First Class, Jaijaipur, district- Janjgir-Champa in Criminal Case No. 1539/2007 acquitting the respondents of the charge under Sections 467, 468, 471, 420 read with Section 34 of Indian Penal Code.
2. Applicant/complainant filed a written complaint vide Ex. P-1 before superintendent of Police Janjgir Champa against the respondent No. 2- Deepmala, who is daughter of Bhojram, respondent No. 1 herein that she with the help of her father Bhojram prepared a forged mark-sheet of class 12<sup>th</sup> and on the basis of which, she

applied for a job in Primary Health Centre, Jaijaipur and obtained job on the post of Supervisor. On the information given by Principal of Government Higher Secondary School, Odekhera vide Ex.P/2 that Smt. Deepmala was debarred from appearing in the examinations for two sessions, Ex.P/3 FIR was lodged by Shri M. L. Shrivastava Investigating Officer police Station Jaijaipur against respondent No.1/non-applicant- Bhojram. As per seizure memo (Ex.P/4) one school result Register, practical exam and other document were seized from Vijay Kumar Sidar (PW-2). After investigation under crime No. 154/2005 at Police Station Jaijaipur charge-sheet was filed against the respondents No. 1 to 4 under Sections 420, 467 and 470 and 471/34 of IPC for preparing a forged mark-sheet of Higher Secondary school certificate for the year 2002 in favour of respondent No. 2 -Smt. Deepmala, and that forged document used as a original certificate for benefiting respondent No. 2 - Smt. Deepmala.

3. Charges were framed under Sections 467, 468, 471 & 420 of Indian Penal Code against the respondents No. 1 & 2 whereas Charges were framed under Sections 467 & 468 of Indian Penal Code against respondents No. 3 & 4.
4. Before the trial Court, prosecution has examination as many as seven witnesses. After due appreciation of the evidence available on record, the trial Court in Criminal Case No. 1539/2007 {**State of Chhattisgarh Vs. Bhojram and three other**}, acquitted all the respondents No. 1 to 4 of the charges leveled against them. After the acquittal of respondents No. 1 to 4, the applicant/complainant

has filed criminal appeal before learned Second Additional Sessions Judge, Shakti, Janjgir Champa i.e. Criminal Appeal No. 01/2018 { **Rameshwar Prasad Vs. Bhojram and four others**). The Sessions Judge dismissed the appeal by affirming the judgment of the trial Court. Hence this revision filed by the applicant.

5. The Criminal Revision has been filed by applicant/ complainant challenging the legality and propriety of judgment of the trial Court as affirmed by the appellate Court praying that respondent Nos. 1 to 4/accused persons be punished for the charges leveled against them.
6. Learned Counsel for applicant/complainant argued that the appellate Court, while dismissing the appeal filed by the applicant/complainant, did not appreciate the evidence and material available on record and the findings so recorded by the appellate Court in dismissing the appeal are contrary to law. He further submits that Respondent No. 2 was debarred from appearing in examination and how she obtained the forged mark-sheet of class 12<sup>th</sup> in her favour, this fact was not examined by both the Courts below. Therefore, the revision may be allowed and the respondent No. 1 to 4/accused be punished and maximum sentences should be imposed upon the respondents No. 1 to 4.
7. We have heard learned counsel appearing for the applicant.
8. This criminal revision is filed by private person. In this revision the applicant is not a victim he only complained to the Superintendent as per ExP/1 regarding the offence committed by non-

applicant/respondent. After the judgment of trial Court no appeal was filed by the State and there is no revision was filed by State. In this Case trial was commenced after filling of the charge-sheet (final report) under section 173 of Cr.P.C. and offence registered against the respondents under Sections 420, 460 and 471/34 of IPC. As per this case the applicant was a private party. The appeal was also filed by present applicant which was dismissed by the appellate Court by maintaining the judgment of the trial Court. Now, this revision has been filed by the private party against the judgment of acquittal and dismissal of the appeal. Although, the first appellate Court is competent to set aside the judgment of the trial Court in view of the judgment rendered by the Supreme Court in the matter of **Bindeveri Prasad Vs. State of Bihar AIR, 2002 Supreme Court 2907** where it has held that in revision against acquittal at the instance of private party, the Court would not re-appreciate the evidence available on record.

9. In light of above mentioned principle laid down by the apex Court, we have to examine only the legality and propriety of the judgment passed by the trial Court as maintained by the appellate Court.
10. According to prosecution witnesses, there is no original alleged forged mark-sheet seized by Investigating Officer during investigation to be produced before the trial Court and the appellate Court has also not examined the alleged forged mark-sheet whether it was forged or not and the original mark-sheet was also not seized by the Investigating agency. The prosecution has also examined the witness Rameshwar Prasad, (PW1)

present applicant, Vijay Kumar Sidar (PW-2), Dr. Saroj Kachhap (PW-3), Shyamlal Chandra, (PW5) Jaiprakash Chandra (PW6) and Laxman Singh (PW7). Laxman Singh (PW7) was declared hostile and did not support the prosecution case. Shyamlal Chandra (PW-5) and Jaiprakash Chandra (PW6) witness of seizure memo have also not supported the prosecution case.

11. Rameshwar Prasad, (PW-1), present applicant in his cross-examination, has admitted and stated in paragraph No. 8 that he has no knowledge about the alleged mark-sheet and also does not know as to who signed and prepared the mark-sheet and from which place the marksheet has been issued and that he has no original record. Thus, he has no personal knowledge about the alleged mark-sheet and his entire evidence is based on hear-say. So no legal value of that evidence.
12. Vijay Kumar Sidar (PW-2) & Dr. Saroj Kachhap (PW-3) also not supported the prosecution case. M. L. Shrivastava (PW-4), Police Officer only stated that from office of the Superintendent of Police, he received one application and present applicant Rameshwar Prasad made a complaint against Bhojram and on the basis of complaint he registered the case and seized the document of school register. He neither examined concerned Secretary of Madhyamik Shikha Mandal for ascertaining the authenticity of the mark sheet nor he examined the genuineness of the mark-sheet. We do not find any illegality committed by the trial Court or the appellate Court, be it in the respect of either compliance of the procedure or conduct of trial Court or appreciation of evidence. In

this view of the matter, no interference is required in the concurrent and well reasoned findings recorded by both the Courts below in the revisional jurisdiction.

13. Consequently, the criminal revision, being devoid of merit, is liable to be and is hereby dismissed at the motion hearing stage itself.

Sd/-

**(Pritinker Diwaker)**  
**Judge**

Sd/-

**(Gautam Chourdiya)**  
**Judge**