

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 500 of 2006

Judgement reserved on 27.11.2018

Judgement delivered on 08.02.2019

Kandru @ Raghu S/o. Harichand Bhatra, Aged 44 years, R/o. Village Banaras, P.S. Nagarnaar, District Bastar (C.G.)

---- **Applicant**

Versus

State of Chhattisgarh, Through District Magistrate Bastar, District Jagdalpur (C.G.)

---- **Respondent**

For Applicant : Mr. Keshav Dewangan, Advocate
For Respondent : Mr. Sanjeev Pandey, Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgement

This revision is directed against the judgment dated 29.06.2006 passed by the Additional Sessions Judge (FTC) Jagdalpur, Bastar in Criminal Appeal No. 18 of 2005, affirming the judgment of conviction and order of sentence dated 24.01.2005 passed by the Judicial Magistrate First Class, Jagdalpur in Criminal Case No. 130/2002, convicting and sentencing the accused/applicant under Sections 420/34, 465 read with section 471/34 IPC and sentencing him to undergo RI for 1 year, to pay fine of Rs. 250/- u/s. 420/34 IPC and RI for 1 year u/s. 465 read with section 471/34 IPC with default stipulation.

2. Facts of the case, in short, are that complainant (PW-1) lodged a written complaint against present applicant before

Superintendent of Police Bastar at Jagdalpur and on the basis of which, FIR (Ex.P-5) was lodged in Police Station Nagarnar, Police Chowki Bakawand, wherein it is alleged that he was working as a Gangman in PWD Department prior to 08.06.1999 and due to his ailment he could not join his duties for some period. After recovery of ailment he went to his place of working but it came to his knowledge that the present applicant was working in his place, in his name by making manipulation in the service book of complainant (PW-1) had affixed his photographs in the service book in his place and getting wages in the name of complainant (PW-1) and the present applicant has already been regularized in the service. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Sections 420/34, 465 read with section 471/34 IPC. The findings recorded by the trial Court have subsequently been affirmed by the lower appellate court. Hence, this revision.

4. Counsel for the accused/applicants submits that both the Courts below have fallen in a serious error in convicting the accused/applicant under Sections 420/34, 465 read with section 471/34 IPC and that the findings so recorded are contrary to the evidence led by the prosecution. He further submits that as the

prosecution could not prove its case beyond reasonable doubt, the judgment impugned is liable to be set aside.

5. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by the both the Courts below convicting and sentencing the accused/applicants as shown above, are strictly in accordance with law and there is no infirmity in the same.

6. Having heard counsel for the parties and perused the material available on record including the evidence of PW-1 who proved the FIR (Ex.P-5) and that of PW-2, PW-6, PW-7 and PW-8 who proved the seizure memo under (Ex P-4), it gets crystallized that the accused/applicant by manipulating in the documents as well as in the service book of the complainant (PW-1) and had received the wages in the name of the complainant (PW-1) for which the complainant (PW-1) suffered great loss. The statement of all these witnesses are quite consistent and therefore there is no reason to disbelieve or discard the same. In this view of the matter, both the Courts below appear to have been fully justified in holding the accused/applicant guilty under Sections 420/34, 465 read with section 471/34 IPC and therefore, no infirmity or illegality is visible in the judgment under assail.

7. As regards sentence, keeping in view the fact that the incident had taken place in the year 1999, that the accused/applicant has already remained in jail about 2 months and 20 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court

thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

8. With the above, the revision stands allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh