

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No.603 of 2004

- Jawahil, S/o Bharat Nai, Aged about 45 years, R/o Bharsela, P.S. Baloda Bazar, At present R/o Village Amaldiha, P.S. Bilha, District – Bilaspur, C.G.

---- Applicant

Versus

- State of Chhattisgarh, Through Police Station Bhatapara, District- Raipur, C.G.

---- Respondent

CRR No.609 of 2004

- Jagat Ram, S/o Chamru Nai, Aged about 60 years, R/o Bharsela, P.S. Baloda Bazar, At present R/o Village Amaldiha, P.S. Bilha, District – Bilaspur, C.G.

---- Applicant

Versus

- State of Chhattisgarh, Through Police Station Bhatapara, District- Raipur, C.G.

---- Respondent

For Applicant	:	Shri Prasoon Agrawal, Adv.
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

27.02.2019

These two revisions arises out of the impugned judgment of conviction and order of sentence dated 27.11.2004 passed by the 2nd Additional Sessions Judge, Baloda-Bazar, District – Raipur,(C.G.) in Cr. Appeal Nos. 73/04, 74/04 and 75/04, whereby the learned appellate Court has confirmed the conviction and sentence of the

accused/applicants as awarded by the learned Judicial Magistrate First Class, Baloda-Bazar, District – Raipur,, vide its judgment dated 03.02.2004 in Cr. Case No. 1458/2001, for the offence under Sections 420,468 and 120-B of the IPC and sentenced them to undergo RI for two years and to pay fine of Rs. 500/-, plus default stipulations. That apart, the accused/Jethuram has been convicted for additional offence under Section 419 of the IPC.

2. As per the record, accused./applicant Jagat Ram in CRR No.609/04 is reported to be dead. Therefore, the revision in respect of accused/applicant Jagat Ram stand abated.

3. Now, the revision is only in respect of accused/applicant Jawahil.

4. Brief facts of the case are that the complainant Kaliram has lodged the FIR against three persons namely Jawahil, Jethuram and Jagatram alleging in that he along with his brothers Kanhaiya, Jagat, Bhagat, Lakhan and Jawahil is the owner of the agricultural land. The agricultural land bearing Kh. No. 104 Rkb 1.680 hectares is situated at village Gondhitopa and the same was recorded in the name of Kaliram complainant, Bhagat, Jagat, Lakhan and Jawahil. It was also alleged that the partition has already been taken place between the brothers, but the Khata Batwari has not been taken place. The complainant Kaliram was residing at Bilaspur and the share of land which was received by him bearing Khasra No.104 Rkb 1.680 hectares was mortgaged with Mayaram Sahu. This land was sold by late Kanhaiya, Bhagat, Jagat, Lakhan and Jawahil. The sale deed was executed in favour of Ganesh Ram. The accused persons fraudulently executed a sale deed in favour of Ganesh Ram and sold his share. It was alleged that in place of Kaliram, some other person appeared and has said that

he is Kaliram. On the complaint of Kaliram the Crime No.42/84 was registered. After filing of the charge-sheet, charges were framed against the accused/applicant Jawahil under Sections 420, 468 and 120-B of the IPC, and against accused Jethuram charges were framed under Sections 120-B, 420, 468 and 410 of the IPC.

5. So as to prove the guilt of the accused/applicant, the prosecution examined as many as 10 witnesses. Statements of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded innocence and false implication in the case.

6. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 08.02.2004, learned Magistrate has convicted the accused/applicant for the offence under Sections 420, 468 and 120-B of the IPC and sentenced him to undergo RI for two years and to pay fine of Rs. 500/-, plus default stipulations and the accused/Jethuram the additional offence under Section 419 of the IPC. This order was appealed by the applicants and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicants. Hence, the present revision.

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

8. Counsel for the applicants submits that he is not pressing this revision as far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2004 and thereby more than 13 years have rolled by since then, the applicant Jawahil is aged more than 58 years, the applicant has

already remained in jail for about 15 days and no useful purpose would be served in again sending him to jail. Therefore, it would be appropriate in the interest of justice, if the sentence imposed upon him may be reduced to the period already undergone by him.

9. Learned State counsel has no objection to this proposition.

10. Having gone through the material on record and the evidence of the prosecution witnesses, established the involvement of the accused/applicant Jawahil in the crime in question stands proved, this Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant Jawahil under Sections 420,468 and 120-B of the IPC.

11. As regards sentence, keeping in view the fact that the incident had taken place in the year 2004, and further that applicant Jawahil has already remained in jail for about fifteen days, the revision respect of Jawahil is partly allowed. While maintaining the conviction of the applicant Jawahil, he is sentenced to the period already undergone by him.

12. Revision No.603/2004, thus partly succeeds.

Sd/-
(Rajani Dubey)
Judge