

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 66 of 2005

Order reserved on 25.02.2019

Order pronounced on 18.03.2019

Kripa Ram, S/o Shri Jhirgu Ram, age about 30 years, R/o Village Masulpani, Thana Narharpur, District Kanker ---- **Applicant**

Versus

The State of Chhattisgarh through D.M., District Kanker (C.G.) --- **Respondent**

For Applicant : Ms. Bulbul Agrawal, Advocate

For State/Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Order

Facts leading to the disposal of this revision petition in brief are that the accused/applicant had manipulated the mark-sheet of one Bisru Ram and by erasing his name he had overwritten his own name. Not only this, he also forged the appointment order under the false seal and signature of the Collector and thus obtained the appointment as teacher on the pretext of being a handicapped person. On a matter being reported to the Police, offences under Sections 380, 170, 420 and 465 IPC were registered against the accused/applicant and after completion of investigation *Challan* was filed under those sections followed by framing of charge accordingly.

2. On the basis of material on record learned Judicial Magistrate First Class, Kanker acquitted the accused/applicant of the charges under Sections 380, 170 and 465 IPC but convicted him under Section 420 IPC vide its judgment dated 26.10.1999 and sentenced him to undergo simple imprisonment for one year and pay fine of Rs.200/- plus default stipulation. In appeal, learned lower Appellate Court also affirmed the findings recorded by the Magistrate in *toto* vide judgment impugned dated 29.01.2005 passed in Criminal Appeal No.169/1999. Hence this revision.

3. Counsel for the accused/applicant submits that both the Courts below have not considered the material available on record in its proper perspective and, therefore, the findings so recorded cannot be sustained in the eye of law. He further submits that the prosecution did not produce any material to show that the appointment order was not genuine and it was fabricated by the applicant. He also submits that PW-13 on whose statement the conviction of the accused/applicant is based cannot be said to be an expert regarding giving of any correct opinion about the seal and signature of the higher authority.

4. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that both the Courts below have not committed any illegality and the findings recorded in the judgment impugned are absolutely based on evidence adduced by the prosecution. He submits that the prosecution has clearly proved the involvement of the accused/applicant of making forgery in the mark-sheet of Bisru Ram and then forging an appointment order under the false seal and signature of the Collector and being so, no interference is required with the same by this Court.

5. Heard counsel for the parties and perused the material available on record.

6. From the statement of PW-3 it is apparent that after the accused/applicant worked as teacher in the school, on arrival of the Police he came to know that the accused/applicant was working on the basis of forged and fabricated appointment order. He has further stated that on being asked, he was apprised by the headmaster of the school that the accused/applicant was never appointed as the Assistant Teacher. PW-4 though has been declared hostile, he has admitted his signature on the seizure memo (Ex.P-1) by which the seal and pad were seized by the Police. PW-5 has also supported the seizure of seal and pad made under Ex. P-1. PW-6 has

also admitted his signature on the seizure memo (Ex. P-2). PW-7 has stated that the accused/applicant had appeared before the Joint Director with the appointment order. He has further stated that as the seal put on the said appointment order created some suspicion, the accused/applicant was asked to appear before the Assistant Commissioner (Tribal Department). PW-10 supporting the case of the prosecution has stated that the accused/applicant appeared before him with a handwritten appointment order and when he did not accept the same, the accused/applicant sent the same by post. Thereafter, when he forwarded the information of assuming the charge by the accused/applicant to Narharpur School Centre, it was revealed that the said appointment was not genuine and ultimately the accused/applicant was removed from the job. He has also stated that while working in his school, the accused/applicant had taken away the register made for making the entries of scholarship. Shri R.S. Khare (PW-13) has also supported the case of the prosecution categorically stating that the orders produced by the applicant regarding his appointment as Assistant Teacher were never issued from his office. He has further stated that seal and signature of the Collector appearing on those documents were also forged by the applicant.

7. Thus, on the basis of aforesaid analysis of the facts and evidence on record it can safely be said that the prosecution has proved its case beyond reasonable doubt that the accused/applicant on the basis of forgery committed by him in the mark-sheet of one Bisru Ram and also by fabricating a false order of appointment under the forged seal and signature of the Collector has committed an offence under Section 420 of the Indian Penal Code. The findings recorded by both the Courts below being based on just and proper appreciation of the evidence adduced by the prosecution cannot be said to be at fault. Being so, the well reasoned

findings recorded by both the Courts below are hereby maintained with dismissal of the instant revision petition preferred by the applicant.

8. Order accordingly.

Sd/-
(Vimla Singh Kapoor)
Judge

jjyotishi/ajay