

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 225 of 2009

1. Bhagwati Prasad Shukla, S/o. Heeralal, Aged about 66 years, R/o. Village Misda, P.S. Nawagarh, District Janjgir Champa (C.G.)
2. Dwarika Prasad S/o. Dhurwa Prasad, Aged about 30 years, R/o. Village Khairtal, P.S. Nawagarh, District Janjgir Champa (C.G.)

Versus

State of Chhattisgarh Through District Magistrate Janjgir Champa (C.G.)

For the Applicant : Mr. Dharmesh Shrivastava, Advocate

For the Respondent : Mr. I.Lakra, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

05.02.2019

1. This revision is directed against the judgment dated 20.02.2009 passed by the Additional Sessions Judge (FTC) Janjgir in Criminal Appeal No. 101 of 2008, affirming the judgment of conviction and order of sentence dated 04.11.2008 passed by the Judicial Magistrate, First Class, Janjgir in Criminal Case No. 164/2007, convicting and sentencing the accused/applicant as under:-

Conviction	Sentence
420 IPC	R.I. for three years and to pay fine of Rs. 300/-
406 IPC	R.I. for three years and to pay fine of Rs. 300/-
120 B IPC	R.I. for three years and to pay fine of Rs. 300/-
4 of the Money Circulation Schemes (Banning) Act, 1978	R.I. for two years and to pay fine of Rs. 1000/-
5 of the Money Circulation Schemes (Banning) Act, 1978	R.I. for two years and to pay fine of Rs. 1000/-
	Default stipulations with a direction to run the sentences concurrently.

2. Facts of the case, in brief, are that a written complaint made by the complainant Asha Devi Mahilange (PW-15) before the Collector, alleging that the applicant along with other accused opened a bank in the name of Krishak Samuh Sahkari Samit Bank Misda and had cheated the villagers by alluring them to open an account in their bank by investing money against which they provided loan to the villagers. It was further alleged that after receiving money from villagers, neither the account of the villages was opened nor any loan was provided to them. Acting upon the written complaint, FIR (Ex.P-13) was registered against the applicants in Police Station Nawagarh and after

completion of investigation, charge-sheet was filed against the applicants.

3. Learned Magistrate having perused the material before it convicted the accused/applicants under Section 420,406,120B of the IPC and Section 4 and 5 of the Money Circulation Schemes (Banning) Act, 1978 and sentenced them as above, which on appeal has been affirmed by the judgment impugned. Hence, this revision.

4. Learned Counsel appearing for the applicants submits that he is not pressing this revision on merit and confining his argument to the sentence part thereof only. According to him, as the incident had taken place in the year 2006 and the applicant No.1 has already remained in jail for a period of 1 year and 2 months and the applicant No. 2 has already remained in jail for a period more than 2 years, no useful purpose would be served in again sending them to jail, and therefore, the sentence imposed upon them may be reduced to the period already undergone by them.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. Heard the State counsel and perused the evidence on record.

7. The over all evidence makes it clear that the accused/applicants had cheated the poor villagers by assuring them of providing loan by opening their accounts. The record shows that though certain passbooks were issued to the villages but they do not indicate any account number etc allotted to them. Not even a single document is there to indicate that the villagers have at any point of time been provided any loan. Rather, the evidence shows that the amount deposited by them has been used by the accused/applicants for their own sake and thus the have cheated the poor villagers by grabbing their hard earned money. Though they are said to have opened a bank yet no registration number or any document in that regard has been brought on record. Thus from the beginning their sole intention was to cheat the villages by hatching a conspiracy making them part with their money. Thus both the Courts below do not appear to have committed any error in holding the accused/applicants guilty under Sections 420,406,120-B IPC, 4 and 5 Money Circulation Schemes (Banning) Act, 1978 and being so the conviction part of the impugned judgment are hereby maintained.

8. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 13 years ago and the applicant No.1 has already remained in jail

for a period of 1 year and 2 months and the applicant No. 2 has already remained in jail for a period more than 2 years and deposited fine amount imposed on them, in my opinion, no useful purpose is going to be served in again sending them to jail. Accordingly, their sentence is reduced to the period already undergone by them.

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

Sd/-
(Vimla Singh Kapoor)
JUDGE

Jyotishi/Santosh