

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 198 of 2013

- Surendra Rai @ Rajesh S/o Laxmiprasad Tiwari Aged About 30 Years
R/o Tenganmada, Chowki Belgahna, P.S. Kota, Distt. Bilaspur,
Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh S/o Through - District Magistrate, Distt. Janjgir
Champa, Chhattisgarh

---- Respondent

For Applicant	:	Shri Avinash Chand Sahu, Adv.
For Respondent/State	:	Shri Anant Bajpayee, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

16.07.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 01.02.2013 passed by the Learned Additional Session Judge, Janjgir, District – Janjgir – Champa, in Cr. Appeal No. 156/2012, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant awarded by the learned Judicial Magistrate first Class, Janjgir, vide its judgment dated 30.10.2012 in Cr. Case No. 339/2012 for the offence under Sections 420, 467 and 468 of the IPC, and sentenced him to undergo RI for three years along with fine of Rs. 1000/-, RI for three years along with fine of Rs.1000/- and RI for three years along with fine of Rs.1000/-, with default stipulations.

2. Brief facts of the case are that the accused/applicant has obtained rupees two lakhs from Kunti Sahu, Hriday Ram, Dilip, Tankeshwar, Suryanarayan and Narendra, for providing job on the post of Computer Operator and has also issued forged appointment letter in their names. The FIR was lodged by the complainants against the applicant in police station Janjgir. After filing of charge-sheet, charges were framed against the accused/applicant under Sections 420, 467 and 468 of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 15 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 30.10.2012, learned Judicial Magistrate First Class has convicted the accused/applicant under Sections 420, 467 and 468 of the IPC, and sentenced him to undergo RI for three years along with fine of Rs. 1000/-, RI for three years along with fine of Rs.1000/- and RI for three years along with fine of Rs.1000/-, plus default stipulations. This order was appealed by the applicant and in the appeal, learned appellate Court has affirmed the conviction and sentence of the applicant. Hence, the present revision.

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

6. Counsel for the applicant 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 2011 and thereby more than 08 years have rolled by since then. He is aged about more than 39 years, the applicant has already remained in jail for about more than ten months and no useful purpose would be served in again sending him to jail. Therefore, it would be in the interest of justice if the sentence imposed on him may be reduced to the period already undergone by him.

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

8. Having gone through the material on record and the evidence of the witnesses including Hriday Prasad Sahu (PW-1), Parmeshwar Rathore(PW-2), Kunti Sahu (PW-3), Suryanarayan (PW-4), Narendra (PW-5), Gangadhar Sahu(PW-6), Lochan(PW-7), Ritesh(PW-8), Dilip Rathore(PW-8), Bheem Dewangan(PW-9), Tankeshwar Patel(PW-10), Prakash Chandra Dwivedi(PW-14) and J.S. Rajput(PW-15) establishes the involvement of the accused/applicant in the crime in question. This Court does not see any illegality in the findings recorded by both the Court below as regards conviction of the applicant under Sections 420, 467 and 468 of the IPC, being so they are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2011 and further that the applicant has already remained in jail for about more than ten months, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of more than ten months, his sentence is reduced to the period already undergone by him.

- 10. The applicant is on bail. His bail bond shall stand discharged.
- 11. Revision, thus, partly succeeds.

Sd/-
(Rajani Dubey)
JUDGE