

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRR No. 855 of 2019

- Bhagwandin S/o Ram Singh Aged About 50 Years R/o Village Dawna, Police Station and Tahsil Ramanujnagar, District Surajpur Chhattisgarh.

---- Applicant

Versus

1. Atwari S/o Churaman Aged About 43 Years R/o Village Sirsiya, Police Station Majua, Giridih (Bihar) at Present Resident of Village Kumda Mines, Police Station Jainagar, District Surajpur Chhattisgarh.
2. Jogaram S/o Sethu Mandal Aged About 51 Years R/o Bernadair, Police Station Janua, Giridih (Bihar) at Present Resident of Village Kumda Mines, Police Station Jainagar, District Surajpur Chhattisgarh.
3. State of Chhattisgarh Through Police Station Jainagar, District Surajpur Chhattisgarh.

---- Respondents

For Applicant	:-	Shri Dashrath Kushwaha, Advocate
For Respondent-State	:-	Shri Santosh Bharat, PL

Hon'ble Shri Prashant Kumar MishraHon'ble Shri Gautam Chourdiya, JJ.Order on BoardByPrashant Kumar Mishra, J

19/07/2019

1. Heard on admission.
2. The Sessions Court has dismissed petitioner's appeal under Section 372 of Cr.P.C. challenging acquittal of the respondents of the charges under Section 419, 420, 467/34 of IPC.
3. The allegation against the respondent was of impersonating the petitioner to obtain services with the SECL. FIR was lodged in the year 1995 and since thereafter, the trial was pending before the Judicial Magistrate First Class, Surajpur. The judgment of acquittal in the said appeal was delivered after twenty one years i.e., on 26.12.2016 vide Annexure A-2.
4. Reading of the judgment of acquittal would reveal that the petitioner being the main witness who has been impersonated did not appear before the trial Magistrate despite service of summons for recording his evidence even though he had engaged a lawyer for assisting the prosecution after seeking permission under Section 301(2) of Cr.P.C.
5. The trial Magistrate has observed that except PW 2 i.e., Suresh Chandra Minj, Head Constable of Police Station, Jainagar no other witness has supported the prosecution. The said witness had conducted investigation. Due to lack of

cogent and reliable evidence the trial Magistrate has concluded that the prosecution case is weak and the prosecution has not been able to prove the allegation beyond reasonable doubt. The judgment of acquittal, rendered by the trial Court, does not appear to be based on perverse or illogical finding. Moreover, the Court below has also discussed in detail the entire facts situation of the case to conclude that the petitioner having participated well by appointing a lawyer during trial, the delay in filing the acquittal appeal does not appear to be *bona-fide*. Once again the said finding does not appear to be perverse or without foundation.

6. There is no substance in this Criminal Revision which fails and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge