

HIGH COURT OF CHHATTISGARH, BILASPUR

- Shyamlal S/o Shri Budaku Aged About 75 Years R/o Bear Sheetala Mandir, Devkar Chowki- Devkar, Tahsil And Police Station - Saja, District Bemetara Chhattisgarh.

Versus

1. Ramlal Sahu S/o Shri Budaku Aged About 70 Years R/o Village Hathidob, Police Station Parpodi, Tahsil Saja, District Bemetara Chhattisgarh.
2. Bajrang Lal Sahu S/o Shri Shankar Sahu Aged About 58 Years R/o Village Hathidob, Police Station Parpodi, Tahsil Saja, District Bemetara Chhattisgarh.
3. Ashok Kumar S/o Shri Ram Lal Sahu Aged About 43 Years R/o Village Hathidob, Police Station Parpodi, Tahsil Saja, District Bemetara Chhattisgarh.

---- Respondents

For Applicant :- Mr. P.K. Patel, Advocate with Mr. Pawan Kumar Kashyap, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Gautam Chourdiya
Judgment On Board

By _____

Prashant Kumar Mishra, J.

19/02/2020

1. On due consideration, delay of 52 days in filing of the criminal revision is condoned. Accordingly, I.A. No.01/2019, application for condonation of delay is allowed.
2. Heard learned counsel for the applicant on admission.
3. The present revision is directed against the Sessions Court's order allowing the revision application preferred by the accused/ respondents to set-aside the order passed by the trial Magistrate registering the complaint against them for offences under Sections 419, 466, 467 and 471 read with Section 34 of the I.P.C. As a result of the impugned order the accused persons stand discharged from the said offences.
4. Complainant/ applicant – Shyamlal and respondent No.1 Ramlal are real brothers. Accused No.2/respondent No.2 Bajrang Lal Sahu and accused No.3/respondent No.3 Ashok Kumar are the nephew of the complainant. The private complaint under Section 200 Cr.P.C. was preferred on the allegation that complainant's brother - Ramlal has obtained service in the Health Department on the post of Vaccinator in the year 1971; joined the services on 23.02.1971; and retired from the service after attaining the age of

superannuation on 31.01.2007. In his service record, he was mentioning his name as Shyamlal and has used the educational certificates belonging to complainant Shyamlal. Thus, accused No.1 Ramlal has concocted and fabricated his educational certificates and has obtained employment impersonating him.

5. The trial Magistrate referred to the report received from the concerned Police to hold that there is *prima facie* substance in the allegation, however, the Sessions Court has observed that on bare perusal of the complaint it is proved that Ramlal obtained employment with the consent and knowledge of his brother complainant- Shyamlal. Thus, the complainant was aware of Ramlal's act of obtaining employment and rendering service for about 40 years but he did not initiate any action. The complaint was filed only when Ramlal stopped paying monthly amount to the complainant. The Sessions Court has also referred to the on going land dispute between the parties, who are members of one family, related as brother and nephew. The Sessions Court has also referred in para 11 to 13 that the concerned Police submitted a report without obtaining any hand writing expert's opinion or obtaining the original documents nor the complainant has filed any such document along with his complaint.

6. In a case of fabrication of documents, hand writing expert's opinion is an important evidence, likewise, if the impersonation continued for 40 years and that too when impersonator is none other than the real brother of the complainant, the culpability is not present. The Sessions Court has rightly observed that the complaint was filed only when accused No.1 Ramlal stopped paying amount to complainant Shyamlal. We see no reason to interfere with the impugned order.

7. Accordingly, the Criminal Revision is dismissed at the admission stage itself.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi