

Kandru @ Raghu Vs State Of Chhattisgarh

Court: Chhattisgarh High Court

Date of Decision: Feb. 8, 2019

Acts Referred: Indian Penal Code, 1860 " Section 34, 420, 465, 471

Hon'ble Judges: Vimla Singh Kapoor, J

Bench: Single Bench

Advocate: Keshav Dewangan, Sanjeev Pandey

Final Decision: Allowed

Judgement

Vimla Singh Kapoor, J

1. This revision is directed against the judgment dated 29.06.2006 passed by the Additional Sessions Judge (FTC) Jagdalpur, Bastar in Criminal Appeal

No. 18 of 2005, affirming the judgment of conviction and order of sentence dated 24.01.2005 passed by the Judicial Magistrate First Class, Jagdalpur

in Criminal Case No. 130/2002, convicting and sentencing the accused/applicant under Sections 420/34, 465 read with section 471/34 IPC and

sentencing him to undergo RI for 1 year, to pay fine of Rs. 250/- u/s. 420/34 IPC and RI for 1 year u/s. 465 read with section 471/34 IPC with default

stipulation.

2. Facts of the case, in short, are that complainant (PW-1) lodged a written complaint against present applicant before Superintendent of Police Bastar

at Jagdalpur and on the basis of which, FIR (Ex.P-5) was lodged in Police Station Nagarnar, Police Chowki Bakawand, wherein it is alleged that he

was working as a Gangman in PWD Department prior to 08.06.1999 and due to his ailment he could not join his duties for some period. After

recovery of ailment he went to his place of working but it came to his knowledge that the present applicant was working in his place, in his name by

making manipulation in the service book of complainant (PW-1) had affixed his photographs in the service book in his place and getting wages in the

name of complainant (PW-1) and the present applicant has already been regularized in the service. After registration of offence and completion of

investigation the charge sheet was filed against the accused/applicant.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Sections

420/34, 465 read with section 471/34 IPC. The findings recorded by the trial Court have subsequently been affirmed by the lower appellate court.

Hence, this revision.

4. Counsel for the accused/applicants submits that both the Courts below have fallen in a serious error in convicting the accused/applicant under

Sections 420/34, 465 read with section 471/34 IPC and that the findings so recorded are contrary to the evidence led by the prosecution. He further

submits that as the prosecution could not prove its case beyond reasonable doubt, the judgment impugned is liable to be set aside.

5. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by the both the Courts

below convicting and sentencing the accused/applicants as shown above, are strictly in accordance with law and there is no infirmity in the same.

6. Having heard counsel for the parties and perused the material available on record including the evidence of PW-1 who proved the FIR (Ex.P-5)

and that of PW-2, PW-6, PW-7 and PW-8 who proved the seizure memo under (Ex P-4), it gets crystallized that the accused/applicant by

manipulating in the documents as well as in the service book of the complainant (PW-1) and had received the wages in the name of the complainant

(PW-1) for which the complainant (PW-1) suffered great loss. The statement of all these witnesses are quite consistent and therefore there is no

reason to disbelieve or discard the same. In this view of the matter, both the Courts below appear to have been fully justified in holding the

accused/applicant guilty under Sections 420/34, 465 read with section 471/34 IPC and therefore, no infirmity or illegality is visible in the judgment

under assault.

7. As regards sentence, keeping in view the fact that the incident had taken place in the year 1999, that the accused/applicant has already remained in

jail about 2 months and 20 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court

thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

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