

**Binod Ram Vs. State of Bihar**

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**Court :** Jharkhand

**Decided On :** Jan-31-2017

**Appellant :** Binod Ram

**Respondent :** State of Bihar

**Advocate for Pet/Ap. :** Mr. Abhishek Sinha

**Judgement :**

Criminal Revision No. 219 of 2000 (R) In the matter of an application under Sections 397 and 401 of the Code of Criminal Procedure --- Binod Ram son of Tapeshwari Ram resident of village Tisra, Barwadih, PS Patan, District Palamau Petitioner Versus 1.The State of Bihar 2.Land Reforms Deputy Collector, Respondents --- For the Petitioner : Mr. Abhishek Sinha, Advocate For the Respondents : Mr. Vijay Kumar Roy, Advocate --- Present: HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY --- Heard Mr. Abhishek Sinha, learned counsel for the petitioner and Mr. Vijay Kumar Roy, learned A.P.P. for the State.

2. This application is directed against the judgment dated 10.05.2000 passed in Criminal Appeal No. 133 of 1995 by the 6th Additional & Sessions Judge, Palamau at Daltonganj whereby and whereunder the judgment dated 17.11.1995 passed in Sadar Town P. S. Case No. 72 of 1991 by the learned Judicial Magistrate 1st class, Daltonganj by which the petitioner has been convicted under Section 466/468/471 and 420 of I.P.C. and sentenced to undergo R.I. for 3 years has been affirmed.

3. It has been stated by the learned counsel for the petitioner that the petitioner had bona-fide obtained employment in the Collectorate on the posts of Clerk cum Typist, but on account of some discrepancy in the attested copy of the mark-sheet and the original mark-sheet of the matriculation, the petitioner apart from being terminated from service has also been prosecuted. It has been stated that the petitioner has fulfilled all the requisites criteria and the discrepancy which has occurred in the original mark-sheet as compared to the attested mark-sheet does not concern the petitioner which fact has not properly been appreciated by the learned courts below. It has been -2- stated that the prosecution has miserably failed to prove its case with respect to alleged forgery by the petitioner. Learned counsel in the alternative has argued that the petitioner is facing the rigors of prosecution case since the year 1991 and has been sufficiently punished and on account of the conviction, his services has also been terminated.

4. Learned A.P.P. for the State opposed the prayer made by the petitioner.

5. An FIR was instituted in which it was alleged that an advertisement was issued being Advertisement No. 40/1987 for employment of Clerk-cum-Typist in the Collectorate with a minimum qualification required for such post being matriculation. The petitioner had submitted the entire documents. It was alleged that the requisite documents were submitted which also included the attested copy of the mark-sheet said to have been issued by Bihar Secondary School Examination Board, Patna which showed the aggregate marks obtained by the petitioner as 118. Allegation has been made that the employment committee found the petitioner fit to be appointed on the post of Clerk-cum-Typist on a temporary basis and accordingly, an appointment letter was also issued to the petitioner with a direction to submit original certificate including mark-sheet. On compliance of the said direction, the petitioner has submitted mark-sheet of the matriculation examination and on verification, it was found that the total marks obtained by the petitioner was 68 whereas, in the attested copy of the mark-sheet submitted by the petitioner, it was shown that the petitioner has obtained 118 marks. On the allegation that the petitioner had forged documents and used the same as genuine for getting employment, the FIR was instituted which was registered as Sadar Town P. S. No. 72 of 1991. Upon investigation having found the case to be true,

charge-sheet was submitted against the petitioner and after cognizance was taken, trial proceeded. Vide judgment dated 17.11.1995, the learned Judicial Magistrate 1st class, Daltonganj was pleased to convict the petitioner for the offences punishable under Sections 466, 468, 471 and 420 of I.P.C. and was sentenced to undergo R.I. For 3 years. The petitioner preferred an appeal being Criminal Appeal No. 133 of 1995 which however was dismissed on 10.05.2000. -3-6. It appears that prosecution in course of trial had examined only 1 witness namely, Raja Ram - who is the informant. One Lal Bahadur Rai who is the Investigating Officer of the case was examined as a court witness. P. W. 1 was the then Deputy Collector posted at Daltonganj. This witness has stated about the issuance of advertisement for appointment on a temporary basis for the post of Clerk-cum-Typist for which the petitioner had applied and also submitted the document including attested copies of the mark-sheet of the matriculation. He has also stated about the endorsement under signature made by the petitioner. The I.O. has been examined as court witness - C.W. 1, who has stated that after investigation was handed over to him, he seized all the documents of the petitioner in the Collectorate itself. After investigation, having found the case to be true, the I.O. has submitted charge-sheet against the petitioner. P.W. 1 who is the Deputy Collector and had played a major role in the selection of the petitioner as a Clerk-cum-Typist has consistently stated about the discrepancy found in the mark-sheet vis-a-vis the original mark-sheet of the petitioner. The prosecution evidence as well as the various documents which have been exhibited does suggest that the petitioner had played a major role in getting employment by intentionally forging documents and submitting the same as genuine which would attract an offence under Indian Penal Code and the proper consideration having been made to the materials available on record, the learned trial court has rightly convicted the petitioner for the offences punishable under Sections 466, 468, 471 & 420 of I.P.C. which was subsequently affirmed in appeal. The judgment and order of conviction passed by the learned trial court and affirmed by the learned appellate court does not require any interference by this court. However with respect to the sentence which has been awarded to the petitioner, it appears that on account of forgery committed by him, the petitioner also lost his services as he was terminated. The petitioner is facing the rigors of trial since the year 1991. The petitioner has

remained in custody for about 1 month.

7. The factual scenario as enumerated above would suggest that the petitioner has sufficiently been punished as apart from losing his job, he has remained for some time in custody. Such circumstances, therefore, would definitely invite modification in the sentence awarded -4- to the petitioner. Accordingly, the sentence awarded to the petitioner is modified to the period already undergone by him in custody.

8. This application stands dismissed with the aforesaid modification in the sentence. (Rongon Mukhopadhyay, J) Jharkhand High Court at Ranchi The 31st day of January, 2017 R.Shekhar/NAFR/Cp.2

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