CGHC010293822017 2026:CGHC:44674

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ANKIT KUMAR SINGH Digitally signed by ANKIT KUMAR SINGH

CRR No. 730 of 2017

Order Reserved on : 30.09.2026

Order Delivered on : 15.10.02026

- Smt. Ganeshiya Bai W/o Makhan, Aged About 66 Years, R/o Village Pasoud, Police Station And Tahsil Doundilohara, District Balod, Chhattisgarh.

... Applicant

versus

- State of Chhattisgarh Through Police Station Doundilohara, District Balod, Chhattisgarh.

... Respondent

For Applicant	**:-**	Ms. Upasana Yadav, Advocate, appears on behalf of Mr. Jitendra Gupta, Advocate.
For State	**:-**	Ms. Sonia Kuldeep, Panel Lawyer

Hon'ble Shri Justice Sudhir Kumar
C A V Order

1. The present criminal revision has been filed challenging order dated 18.07.2017 passed by 1st Additional Sessions Judge, Balod, District Balod, Chhattisgarh in Criminal Appeal No. 50 of 2016, arising out of judgment of conviction and order of sentence dated

30.04.2016, passed by the Judicial Magistrate First Class, Doundilohara, District Balod, Chhattisgarh, in Criminal Case No. 236 of 2009.

2. By impugned judgment dated 18.07.2017, appellant herein has been convicted for offence under Section 419 of IPC and sentenced to undergo rigorous imprisonment for six month with a fine of ₹500/-; in default of payment of fine to further undergo additional rigorous imprisonment for one month, and also convicted for offence under Section 193 of the IPC and sentenced to undergo rigorous imprisonment for six months with a fine of ₹500/-; in default of payment of fine to further undergo additional rigorous imprisonment for one month. Both the sentences are directed to run concurrently.

Prosecution Case:-

3. The prosecution case, in brief, is that the complainant, Poshan Lal, submitted a written complaint before the Court of the Naib Tehsildar, Daundilohara, alleging that accused Ganeshia Bai was the daughter of Chhabilal and Sukhbati. After the death of Chhabilal, Sukhbati contracted a customary marriage (चूड़ी विवाह) with Suraj Lal and from their relations two sons, Poshan and Prakash, and two daughters, Saraswati Bai and Meena Kumari, were born. It was alleged that Radha

Bai, the daughter of Chhabilal and Sukhbati, was born on 06.11.1950 at village Kurdi and died on 20.11.1950, i.e. about fifteen days after her birth. On 15.11.1965, Ganeshia Bai allegedly executed a document in favour of Sukhbati relinquishing any claim over Sukhbati's property. However, after Sukhbati's death, Ganeshia Bai initiated Revenue Case No. 1-1/6 of 1991-92 before the Naib Tehsildar, Daundilohara, claiming mutation and partition as Sukhbati's heir. In the said proceedings, she allegedly represented herself as Radha Bai, despite Radha Bai having died shortly after her birth, and deliberately asserted that she was known by both names, Ganeshia Bai and Radha Bai. It was further alleged that accused Chatur and Sitaram supported such impersonation by making statements before the revenue authority identifying Ganeshia Bai as Radha Bai. On the basis of the complaint, the Naib Tehsildar forwarded a written report to Police Station Daundilohara, pursuant to which Crime No. 102/94 was registered.

4. After completion of investigation, applicant herein was charge-sheeted before the competent court for the aforesaid offence. The applicant/ accused abjured her guilt and entered

into defence. It is pertinent to mention here that the other co-accused persons had died during the course of trial.

5. In order to bring home the offence, prosecution has examined as many as 5 witnesses and exhibited 15 documents, whereas, applicant, in support of her case, has neither examined any witness nor exhibited any document. The statement of the applicant / accused was recorded under Section 313 of the CrPC in which she denied the circumstances appearing against her in the evidence brought on record by the prosecution, pleaded innocence and false implication.

6. The appellate Court after appreciating the oral and documentary evidence available on record, convicted the applicant/ accused for the offence as mentioned in the opening paragraph of the order affirming the judgment of conviction and order of sentence passed by the Judicial Magistrate First Class, against which the revision has been preferred by the applicant herein questioning both the impugned judgment of conviction and order of sentence.

Submission of the Parties:-

7. Learned counsel for the applicant would submit that the Judicial Magistrate First Class, Doundilohara and the First Additional

Sessions Judge, Balod, have grossly erred in convicting the applicant for the offence as mentioned above. She would also submit that the trial Court failed to appreciate that the prosecution witnesses are not reliable witnesses because they are interested and partition witnesses and even the prosecution has not provided original document for proving the case and, therefore, reliance of photo state documents by the prosecution makes their case fatal. She would further submit that on the other hand the prosecution has failed to examine other independent witness who was also a important witness. The non-examination of important independent witness for the purpose of corroboration by the prosecution makes own case fatal. She would also submit that the court below has not considered the grounds raised by the defence and thereby committed an illegality, therefore, the prosecution has not been able to bring home the offence beyond reasonable doubt, thus the revision may be allowed. Alternatively, she would submit that looking to the facts and cirumstances of the case and also in the interest of justice the applicant may be sentecned to the period undergone by her.

8. Learned State counsel would support the impugned judgment and submit that prosecution has been able to bring home the offence beyond reasonable doubt and the applicant has rightly been convicted by the Judicial Magistrate First Class and the same has rightly been affirmed by the appellate Court on the basis of

evidences available on record and the impugned judgment is just and proper which does not warrant any interference and, therefore, the present revision deserves to be dismissed.

9. I have heard learned counsel for the parties, considered their rival submissions made herein-above and perused the records minutely.

Discussion & Analysis:-

10. As per the prosecution, the applicant herein is the daughter of Sombati and Chhabilal, who was the first husband of Sombati, and Radha Bai was her sister who was born on 06.11.1950 and died on 20.11.1950. The said fact has been stated by complainant Poshan Lal (PW-1) in the written complaint vide Ex.P/3 filed before Tehsildar which has also been supported by birth certificate as well as death certificate of Radha Bai Ex.P/1 & P/2, respectively.

11. In this regard, D.K. Mishra (PW-3), Assistant Grade-II in the Statistical Department, has stated that in the Birth Registration Register of Police Station Arjunda for the year 1949, on page No. 250, at serial No. 01, the birth of Gauri Bai, daughter of Chhabilal, is recorded in respect of Village Kurdi. The original registration register is Ex. P/6, and its photocopy is Exhibit P-6C. Similarly, in the Birth Registration Register of Police Station Arjunda for the year 1950, relating to Village Kurdi, on page No. 137, at serial No. 18, the birth of Radha Bai, daughter of Chhabilal, is recorded. The

original register is Ex.P/7, and its photocopy is Ex.P/1. Likewise, in the Death Registration Register of Police Station Arjunda for the year 1950, relating to Village Kurdi, on page No. 134, the death of Radha Bai is recorded. The original copy death registration register is Ex.P/8, and its photocopy is Ex.P/2. In the cross-examination PW-3 has remained unchallenged.

12. The issue of impersonation of Ganeshiya Bai as Radha Bai is further corroborated by the evidence of U.S. Agrawal (PW-5), Deputy Collector. He has deposed that from January, 1994 to September, 1994 he was posted as Naib Tehsildar, Daundilohara and in Case No. 1 अ/6/1991-92, complainant Poshan Lal (PW-1) had made a written complaint vide Ex.P/3 to the effect that Ganeshiya Bai after impersonating her as Radha Bai has made a statement before the Court and the said fact has not been rebutted by the defence counsel in cross-examination.

13. The trial Court while convicting the applicant for the aforesaid offence has also observed at para 13 that as per Exs. P/7, P/8 & P/9, that the applicant has impersonated herself before the Board of Revenue in a Revenue case as Radha Bai. Ex.P/1 & Ex.P/2, further corroborated the fact that the applicant has impersonated herself as Radha Bai before the competent Court whereas, Radha Bai has already expired in the year 1950. From perusal of the application (Ex.P/13) filed before Naib Tehsildar, Daundilohara,

as also the Revenue records Ex.P/14, it is evident that the present applicant was known as Ganeshiya Bai and not Radha Bai. The trial Court has while imposing conviction under Sections 419 & 193 of the IPC has relied upon the evidence of Gopal Singh (PW-2), Assistant Sub Inspector (retired). Upon perusal of the documents and the statement of the aforesaid witnesses, it is established that Radha Bai was born on 12.11.1950 and died on 20.11.1950.

14. On appeal preferred by the applicant, the appellate Court has also affirmed the finding recorded by the trial Court and dismissed the appeal.

Conclusion:-

15. On overall analysis of the evidence available on record, this Court is not in a position to take a different view of the matter. In the considered opinion of this Court, conviction imposed upon the appellant under Sections 419 & 193 of the IPC deserves to be and is hereby affirmed.

16. Taking into consideration the facts and circumstances of the case, particularly, the fact that the incident occurred in the year 1991-92 and almost 35 years have been passed and that the applicant is a lady, aged about 66 years at the time of presentation of the instant revision petition and now the age of the applicant is 75 years, this Court is of the opinion that ends of justice would be served if the

applicant is sentenced to the period already undergone by her. Perusal of the impugned judgment would show that the applicant remained is jail from 03.07.1994 till 06.07.1994 & from 18.07.2017 to 29.07.2017, meaning thereby, she remained in jail for 16 days. Accordingly, the applicant is sentenced to the period already undergone by her. Since the applicant is stated to be on bail, she need not surrender. However, her bail bonds shall remain in operation for a period six months as per provision contained under Section 437-A of the CrPC/Section 481 of Bhartiya Nagrik Suraksha Sanhita, 2023.

17. Consequently, the instant revision is **partly allowed**.

Sd/-
(Sudhir Kumar)
Judge

Ankit