

(2003) 05 P&H CK 0206

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 443 of 1992

Ram Kishan

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: May 21, 2003

Acts Referred:

- Penal Code, 1860 (IPC) - Section 409

Citation: (2003) 9 CriminalCC 711 : (2003) 4 RCR(Criminal) 507

Hon'ble Judges: H.S. Bedi, J

Bench: Single Bench

Advocate: N.S. Panwar, for the Appellant; S.S. Brar, D.A.G., Punjab, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

H.S. Bedi, J.

This petition is directed against the judgment dated 11.7.1992, whereby the Additional Sessions Judge, Gurgaon, had up-held the order of the trial Magistrate convicting the accused for an offence punishable u/s 409 IPC and sentencing him to undergo rigorous imprisonment for one year and to pay a fine of Rs. 2000/- and in default of payment of fine, to undergo further rigorous imprisonment for three months.

2. The facts of the case are that appellant Ram Kishan had been employed with the Haryana State Electricity Board as a Cashier. On 14.9.1984, he was deputed to collect the cash of the energy bills from various persons of village Samaspur. On return from the village, he handed over a sum of Rs. 12171.10 to the Head Clerk, K.M. Bhatnagar and the corresponding entries were made in the relevant record. On a comparison of the receipts issued by the accused, it was found that the amount collected by him was, in fact, Rs. 13804.55 and as such, an amount of Rs. 1633.45 had not been deposited. It was further found that he had issued three receipts bearing numbers 169 to 171 from book No. 1310 for Rs. 100/-, Rs. 85/- and Rs. 600/-

respectively, totaling Rs. 785/- and this amount too had not been accounted for in the office. The Sub Divisional Officer (Operation) of the Haryana State Electricity Board, thereafter, made a written complaint, Ex.PW-13/A dated 19.9.1984 to the police and after investigation, a case was registered against the accused u/s 409 IPC on 1.10.1984. During the course of the investigation, the accused also deposited the amount that had been allegedly embezzled.

3. On a consideration of the evidence collected by the prosecution, a charge" u/s 409 IPC was framed, to which the accused pleaded not guilty and claimed trial.

4. Most of the prosecution witnesses, who were produced to prove that various sums of money had been entrusted to the accused on the date in question, resiled and were declared hostile. The Courts below, however, relied on the evidence of two witnesses, whose evidence was found to be material, i.e. PW-3 Devi Dayal and PW-4 Balbir Singh, who supported the prosecution case and categorically stated that they had entrusted certain amounts to Ram Kishan accused on the date in question. The statement of PW-12 Krishan Mohan corroborated the above version and proved that the receipts Nos. 169 of 171 were in the handwriting of the accused. The accused was accordingly convicted by the trial Court, and the appeal filed by him was also dismissed.

5. The present petition has been filed impugning the aforesaid judgments. To my mind, no serious objection can be made to the findings recorded by the Courts below. I find that a re-appraisal of evidence by a revisional Court should be made only in exceptional circumstances. I am of the view that the present case is not such a case. The evidence given by PW-3 Devi Dayal, PW-4 Balbir Singh and PW-12 Krishan Mohan establish the involvement of the accused beyond doubt.

6. Mr. Panwar, the learned counsel for the petitioner, has pointed out that the alleged embezzlement had taken place in the year 1984 and the FIR had also been registered in the same year, and the matter had been pending in one Court or the other since 1984. In this eventually, he has prayed that the sentence imposed upon the accused may be reduced.

7. I find merit in this plea. The matter has been pending for almost 20 years. It is also the admitted position that the amount embezzled by the petitioner had been deposited by him with the Haryana State Electricity Board during the course of the investigation and as such, he was at the most guilty of temporary embezzlement for a period of 11 months. In this view of the matter, while maintaining the order of conviction, the sentence imposed upon the petitioner is reduced to the period already undergone by him.