

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 21 of 2015
Date of decision : April 27, 2015

Ram Darshan

..... Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. H.S. Saggu, Advocate
for the petitioner

Mr. Deep Singh, AAG Punjab

ANITA CHAUDHRY, J.(ORAL)

Ram Darshan was sentenced to undergo one year rigorous imprisonment alongwith fine of ₹ 1000/- under Section 406 IPC by the trial Court which was affirmed in appeal. Now this is a revision at his instance.

The backdrop of the case is necessary to understand the context and the factual score. The District Manager of Punjab State Civil Supplied Corporation (PUNSUP) made a complaint on 20.12.2001 to the SSP, Sangrur alleging misappropriation of paddy (owned by PUNSUP), which was delivered by them to M/s Hanuman Trading Company, Khanauri for milling during the year 1999-2000. 35689 bags of paddy weighing 23197-85 quintals was delivered for milling. The miller was to deliver rice weighing 15387-12.390 quintals of rice upto 29.2.2000 to FCI in the account of PUNSUP.

The miller delivered rice weighing 11060-65 quintals and thereby misappropriated 10035 bags of paddy weighing 6522-75 quintals. The value of the rice/paddy was approximately ₹ 43.79 lacs. The interest amount over it was ₹ 12.26 lacs. The miller was asked number of time to deliver the rice or its price. The complaint was made against the petitioner, the sole proprietor of the mill.

Investigations were carried out, challan was submitted and charge was framed. The prosecution examined six witnesses. In the statement under Section 313 Cr.P.C., the accused simply denied the allegations and led no evidence. The trial Court after examination of the evidence and after giving a hearing repelled the main submission that the matter was civil in nature. It noted that there was positive evidence regarding entrustment. The plea that there was an arbitration clause and criminal proceedings could not take place, was also rejected.

Aggrieved by the judgment of the trial Court, an appeal was preferred which was dismissed. The findings recorded by the trial Court were affirmed. The petitioner was taken into custody.

On 11.2.2015, the record of the trial Court was requisitioned.

Today, when the case was fixed for arguments, learned counsel for the petitioner limited his prayer to the quantum of sentence.

Since the prayer is limited to the question of sentence, the conviction order is upheld.

It was urged that petitioner had already undergone

custody of over four months and the petitioner be sentenced to the period already undergone or may be released on probation as it was the first offence. It was urged that the incident related to 1999-2000 and the petitioner had faced a protracted trial.

The prayer has been opposed by the State counsel who submits that the allegations against the petitioner are of misappropriating Government funds and the amount is not small and such cases have to be handled with a severe hand and the trial Court has already taken a lenient view. It was urged that the accused could not lead any evidence that he had returned the entire paddy and he had not deposited the amount.

I have considered the submissions of both the sides and I am of the view that no leniency can be shown to the petitioner. The trial Court had already taken a lenient view. It is not a fit case for releasing the petitioner on probation either. The order passed by the trial Court and the appellate Court is affirmed. The revision is dismissed.

April 27, 2015

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**(ANITA CHAUDHRY)
JUDGE**