

In the High Court of Punjab and Haryana at Chandigarh

CRR No.3316 of 2015 (O&M)
Date of decision: 07.09.2015

Anil Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.S.S.Kaang,Advocate for the petitioner.

SABINA, J.

Petitioner had faced trial in FIR No. 50 dated 29.4.2007 under Section 408 of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Dhuri. Trial Court, vide judgment dated 6.3.2010, ordered the conviction and sentence of the petitioner qua commission of offence punishable under Section 408 IPC. The said judgment/order of conviction and sentence of the petitioner were upheld in appeal by the appellate Court vide order dated 9.2.2015. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that the petitioner has been falsely involved in this case. In fact, if the voucher-Exhibit P2 had been handed over to the petitioner for deposit of the amount in question with the Bank, the said voucher would have been in possession of the petitioner and not in

possession of the prosecution witnesses. Moreover, only recovery of ₹20,000/- was made from the petitioner out of the amount in question during investigation.

Prosecution story, in brief, is that the complainant-Ashok Kumar was partner of M/s Jindal Ployvin Pipes Factory, Dhuri. Petitioner was appointed as a Salesman on 29.5.2006 with the said firm. On 21.4.2007, amount of ₹ 6,80,000/- was handed over to the petitioner for depositing the same with the HDFC Bank, Sangrur. However, petitioner had failed to deposit the amount with the Bank and had misappropriated the said amount.

In order to prove its case, prosecution led its evidence.

Deepak Kumar, while appearing in the witness box, as PW1, deposed that he was one of the partners of M/s Jindal Ployvin Pipes Factory, Dhuri. Petitioner was appointed as a Salesman with the firm on 29.5.2006. On 21.4.2007, Ashok Kumar and Sham Lal were also present in the office along with the said witness. At that time, Deepak Kumar filled in the voucher and gave ₹6,80,000/- to the petitioner for depositing the same with the HDFC Bank, Sangrur. The said voucher was proved on record as Exhibit P2. However, on 23.4.2007, it transpired that the petitioner had not deposited the amount with the Bank. Voucher- Exhibit P2 was duly signed by the petitioner. In fact, the petitioner had also signed receipt-Exhibit P3 after he was handed over the amount in question to be deposited with Bank. Receipt-Exhibit P3 was taken in possession by the Police vide Exhibit P4.

PW2 Sham Lal and PW3 Ashok Kumar corroborated the

statement of PW1 with regard to handing over of ₹6,80,000/- to the petitioner to be deposited in the Bank,

As per the report of the Forensic Science Laboratory, the signatures on the receipt- Exhibit P3 matched with the standard signatures of the petitioner which were taken in the Court. Thus, from the prosecution evidence, it was evident that the petitioner was handed over ₹6,80,000/- by the partners of the firm on 21.4.2007 for being deposited with the Bank. However, petitioner had failed to deposit the amount in question with the Bank. The fact that only ₹20,000/- were recovered during investigation from the petitioner is not fatal to the prosecution case. Further, the fact that Exhibit P2, voucher was produced by the prosecution witness itself, is not fatal to the prosecution case in view of the receipt-Exhibit P3 executed by the petitioner qua receipt of the amount in question from the partners of the firm. Thus, the petitioner had been entrusted ₹6,80,000/- on 21.4.2007 for depositing the same with HDFC Bank but the petitioner had failed to do so. Hence, the petitioner had misappropriated the amount of ₹6,80,000/- handed over to him by the partner of the firm. The Courts below had, thus, rightly ordered the conviction and sentence of the petitioner under Section 408 IPC. No ground for interference is made out.

Dismissed.

**(Sabina)
Judge**

September 07, 2015