

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CRR NO. 604 of 2015 (O&M)

Date of Decision: 25.08.2015

Ashok Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

Coram: Hon'ble Mrs. Justice Sabina

Present: Mr.Navdeep Chabbra, Advocate
for the petitioner

Sabina, J.

Petitioner had faced trial in FIR No. 291 dated 29.9.2006 registered at Police Station Samana, District Patiala under Sections 408,420,465,467 of the Indian Penal Code, 1860 ('IPC' for short). Trial Court vide judgment/order dated 1.9.2012 convicted and sentenced the petitioner qua commission of offence punishable under Section 408 IPC. Appeal filed by the petitioner against the said judgment/order of his conviction and sentence was dismissed by the appellate Court vide order dated 13.10.2014. Hence, the present petition by the petitioner-Ashok Kumar.

Prosecution story, in brief, is that the petitioner was working as a Panchayat Secretary in Kutbanpur Cooperative Service Sabha Limited Kutbanpur, Tehsil Samana and he had embezzled funds of the Society as well as misappropriated the amount which

was liable to be deposited in the accounts of the members of the Society.

The details of the amount embezzled by the petitioner, as mentioned in paras 2 to 6 of the judgment of the appellate Court, reads as under:-

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<i>Sr.No</i>	<i>Name</i>	<i>Quantity</i>	<i>Value</i>
1	Urea Fertilizer	255 bags	60945/-
2	DAP Fertilizer	121 bags	56567/-
3	Feed	411 bags	94530/-
4	Marklod pesticide	7 liters	1050/-
		Total	213092/-

3. Apart from it, accused Ashok Kumar embezzled the amounts as under:-

S. N o.	Name of the member and his account	Receiving date	Actual	Interest		Total
1	Baldev Singh son of Sardool Singh 3/254	02/08/03	16590/-	-	-	16590
2	Amar Singh son of Mangu Ram 9/211	17.11.2002	5000/-	1145	250	6395
3	Amritpal Singh son of Sada Singh 9/216	07/02/02	5000/-	475/-	-	5475/-
4	Chanan Ram son of Jiuana Ram 9/103	25.5.2002	16660/-	5795/-	-	22455/-
5	Joginder Singh son of Kapoor Singh 3/142	06/06/03	36561/-	19500/-	-	56061/-

6	Subeg Singh son of Shisha Singh 9/141	18.12.2001	5000/-	380/-	-	5380/-
7	Jarnail Singh son of Kapoor Singh 3/231	04/06/02	20800/-	9575/-	-	30375/-
8	Mohinder Singh son of Buta Singh 3/5	25.5.2000	4599/-	-	-	4599
9	Kundan Singh son of Fauja Singh 3/118	25.5.2003	33205/-	7805	-	41010/-
10	Devinder Singh son of Kundan Singh	20.5.2003	3000/-	1705/-	-	4705/-
11	Gurmail Singh son of Amar Singh 3/152	11/12/00	20722/-	1578/-	-	22300/-
12	Gurdeep Singh son of Jagir Singh 3/100	14.5.2003	55728/-	10872/-	-	66600/-
13	Karnail Singh son of Banta Singh 3/89	11/08/03	13000/-	-	-	13000/-
14	Devinder Singh son of Pala Singh 3/225	20.6.2002	6687/-	1033/-	250	7970/-
15	Kapoor Singh son of Ganda Singh 3/94	06/06/1994	10485/-	655/-	-	11140/-
16	Parkash Singh son of Saun Ram 3/135	18.11.2002	6220/-	420	-	6640/-

17	Ram Dass son of Hazura Ram 9/46	07/01/02	5000/-	415/-	-	5415/-
18	Darshan Singh son of Amar Singh 3/167	11/06/96	-	2500	-	2500/-
19	Sada Singh son of Sardool Singh 3/250	20.11.2002	26874/-	-	-	26874/-
20	Lachhman Dass son of Mewa Ram 9/176	-	3000	1000/-	250	4250
			294131	64853	750	359734

4. As per the above said pass book, accused Ashok Kumar received the amount from the members and deposited less in their account and embezzled the amount of Rs.18003/-.

S. No.	Name of the members and his account	Date	Entry as per passbook	Interest / total	Date	Entry as per day book	Actual amount interest and total	Less entered amount actual interest total
1	Surinder Singh son of Joginder Singh 3/249	24.10.2000	233348/-	1315/24663/-	25.10.2000	-	5348/-1312 total 6660/-	18003/-

5. Accused Ashok Kumar received loan amount along with interest and made entries of this amount in the day book, cash book and bank and embezzled the amount of Rs.13090/- as following:-

S. No.	Name and account	Date	Page	Amount entered	Entry in day book	Less entry
1	Kapoor Singh son of Sardar Singh 3/127	23.11.2002	62	5626/-	4546	1080

2	Joginder Singh son of Shisha Singh 3/ 206	04/06/02	26	9965	5165	4800
3	Hardeep Singh son of Gahna Singh 3/213	17.12.2002	75	7168	5160	2000
4	Sukhwinder Singh son of Karnail Singh 3/ 222	18.11.2002	53	4845	950	1895/-
5	Sukhwinder Singh son of Kehar Singh 3/68	05/12/02	71	2635	2305	330/-
6	Balwinder Singh son of Harnek Singh 9/133	24.8.2002	18	720	200	520
7	Narinder Singh son of Teja Singh 9/137	03/01/03	80	1165	365	800/-
8	Jasbir Singh son of Jarnail Singh 9/142	16.5.2002	14	725	325	400
9	Rattan Lal son of Hazura Ram 9/165	16.11.2002	58	455	220	235
10	Mewa Ram son of Gurmit Singh 9/175	16.11.2002	58	409	209	200
11	Satnam Singh son of Gurmit Singh 9/2004	24.5.2002	18	760	345	415
12	Sukhjot Singh son of Gurmit Singh 9/2004	24.5.2002	18	760	345	415
			Total	33233/-	20143	13090

6. Accused made bogus entries of fertilizer in the account of four members and embezzled Rs.35122/- as per following details:-

S.No.	Name of the member and his account	Fertilizer received by the member	Given
1	Sukhwinder Singh son of Mangal Singh 3/272	490	7364/-
2	Joginder Singh son of Jaswant Singh 3/190	1235	12625
3	Amar Kaur wife of Avtar Singh 3/185	8695	8856
4	Shisha Singh son of Mangal Singh 3/180	3509	6277
		13529	35122

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During trial, prosecution examined 26 witnesses to prove its case.

Learned counsel for the petitioner has submitted that the petitioner has been falsely involved in this case. Prosecution had failed to prove its case.

In the present case, the allegations levelled against the petitioner are that he had embezzled the funds of the Society as well as the amount which was liable to be deposited in the accounts of the members of the Society.

PW2 Baljit Singh proved the audit report. As per the said witness, petitioner had misappropriated the amount of ₹ 7,14,715/- belonging to the Society. The said witness proved his report Exhibit PW2/A.

The other allegation against the petitioner was that he had misappropriated the funds belonging to the members of the Society as he had failed to deposit the amount in the account of the Society which was handed over to him by the members.

PW7 Jarnail Singh, son of Kapur Singh, PW9 Jarnail Singh son of Banta Singh, PW11 Surinder Singh, PW12 Subeg Singh, PW13 Balwinder Singh son of Parkash Ram, PW14 Balwinder Singh son of Harnek Singh, PW15 Amar Singh, PW17 Amar Kaur, PW21 Sukhjit Singh and PW22 Satnam Singh had deposed that the petitioner had failed to deposit the entire amount in their accounts handed over by them to him. Thus, from the statements of the said witnesses, it is evident that the petitioner had not been depositing the entire amount handed over by the members to him for depositing the same in their accounts.

Thus, the prosecution had been successful in establishing that the petitioner had misappropriated the funds of the Society as well as the amount handed over to him by the members of the Society for depositing the same in their accounts. Hence, the Courts below had rightly ordered the conviction and sentence of the petitioner qua commission of offence punishable under Section 408 IPC. No ground for interference is made out.

Dismissed.

**(Sabina)
Judge**

August 25, 2015
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