* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment reserved on :08.9.2015*
Judgment delivered on :17.9.2015

\+ CRL.A. 1454/2012
RAJ KUMAR SHARMA ..... Appellant
Through Mr.A.K.Trivedi, Advocate.

Versus

STATE THROUGH CENTRAL BUREAU OF INVESTIGATION ..... Respondent
Through Ms.Rajdipa Behura, Spl.P.P. along with Ms.Monica Gupta ad Ms.Sanskriti Jain, Advocates.

\+ CRL.A. 150/2013
RAMESH CHAND CHATURVEDI ..... Appellant
Through Mr.Neerad Pandey and Mr.S.P.Upadhyay, Advocates and Mr.Imran Khan, Amicus Curiae.

versus

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS DIRECTOR ..... Respondent
Through Ms.Rajdipa Behura, Spl.P.P. along with Ms.Monica Gupta ad Ms.Sanskriti Jain, Advocates.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J.

1 These appeals are directed against the impugned judgment and order on sentence dated 07.12.2012 and 12.12.2012 respectively

wherein the two appellants Raj Kumar Sharma and Ramesh Chand Chaturvedi have been convicted under Section 13 (i)(c) read with Section 13 (2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the 'said Act'). They have also been convicted under Sections 420/468/471/477-A read with Section 120-B of the IPC. Appellant Raj Kumar Sharma has been sentenced to undergo RI for a maximum period of 5 years for this conviction under the said Act. He has been sentenced separately for his other convictions and besides imprisonment of sentence, he has also been directed to pay fine. The total cumulative fine imposed upon the appellant Raj Kumar Sharma is Rs.6 lacs. Appellant Ramesh Chand Chaturvedi has been sentenced to undergo a maximum period of incarceration of 4 years for his conviction under the said Act. He has separately been sentenced for his other convictions besides a cumulative fine of Rs.3,50,000/-. The sentences were to run concurrently. Benefit of Section 428 of the Cr.PC had been granted to the appellants.

2 Nominal roll of appellant Raj Kumar Sharma reflects that as on date, he has undergone incarceration of about 3 years and 7 months which includes the remission awarded to him.

3 Nominal roll of appellant Ramesh Chand Chaturvedi reflects that as on date, he has undergone incarceration of about 3 years and 3 months which includes his remission.

4 The version of the prosecution is that Raj Kumar Sharma (in short 'A-1') posted as Cashier used to receive payments by cash/cheque towards the water consumption charges at Patel Nagar, Delhi Jal Board. Accused Ramesh Chand Chaturvedi (in short 'A-2') who was posted as peon-cum-assistant meter reader used to assist A-1 in his work as NCR Operator which job entailed him of putting the seal/stamp of the DJB on the bills presented for payment. Payments were being collected by A-1 and A-2 and entries were being made in the cash books. It is the case of the prosecution that a total sum of Rs.10,54,507/- shown as received in the cash book by the appellants in the month of February, 2008 had not been deposited in the bank and nor shown to have been carried forward in the cash book; the said amounts had been misappropriated; further an amount of Rs.11,20,077/- was shown to be handed over to the collecting agency on 16.04.2008 but the bank statement revealed that only Rs.20,077/- had been deposited and the remaining amount of Rs.11 lacs was allegedly misappropriated. Further investigation revealed that

embezzlement/misappropriation of the amounts were brought forward in the internal audit report conducted as per the directions of the Additional CEO and these forgeries were also confirmed by the GEQD opinion.

5 The prosecution in support of its case has examined 14 witnesses. The sanction for prosecution of the accused was proved in the version of PW-9. PW-6 and PW-12 were the ZROs and their depositions were to the effect that both A-1 and A-2 had been posted vide separate office orders dated 28.07.2007 (Ex.PW-6/C) and dated 06.07.2007 (Ex.PW-6/B) as Cashier and peon/NCR operator respectively. The internal audit reports were proved through PW-1 and PW-2. PW-10 had proved the report of the GEQD evidencing the fact that admitted/specimen signatures of A-1 and A-2 matched with the questioned documents which substantiated the allegation of forgery qua the appellants.

6 In the statement of the accused persons recorded under Section 313 of the Cr.PC both of them have pleaded innocence stating that they have been falsely implicated. In defence A-2 had produced two witnesses DW-1 and DW-2.

7 On the basis of the aforenoted evidence, both oral and documentary, the accused were charge-sheeted, tried, convicted and

sentence as aforenoted.

8 On behalf of appellant Raj Kumar Sharma, threefold submissions have been made. It has been argued by the learned counsel for the appellant that the provisions of Section 17 of the said Act have not been complied with. Section 17 specifically postulates that an officer not below the rank of an Inspector should have investigated the present office but admittedly the Investigating Officer of this Court was of the rank of a Sub-Inspector. Attention has been drawn to the version of PW-14 who was the Investigating Officer and has admitted that at the time of investigation, he was only a Sub-Inspector and had been promoted as an Inspector only in the year 2009. The investigation being vitiated, the impugned judgment is liable to be set aside on this ground alone. To support this proposition, learned counsel for the appellant has placed reliance upon the judgment of the Apex Court reported as (2006) 7 SCC 172 *State Inspector of Police, Vishakhapatnam Vs. Surya Sankaram Karri*. Submission being that the Apex Court in this judgment had held that where the challenge to the investigation on the ground of non-fulfillment of the requirement of Section 17 are made, the burden of proof lies upon the prosecution to establish that the investigation was in

fact carried out by authorized police officer which in this case the investigating agency has failed to discharge. His second submission is that the mandate of Section 197 of the Cr.PC which specifically postulates that sanction for prosecution of a public servant for offences under the Indian Penal Code are required has also not been met with. Attention has been drawn to the sanction order (Ex.PW-9/A). Submission being that this order specifically states that the sanction has been accorded for prosecution of the accused persons under Section 19 (1)(c) of the said Act; no sanction has been granted under Section 197 of the Cr.PC which is another reason for vitiation of the trial. To support this argument, learned counsel for the appellant has placed reliance upon (2009) 8 SCC 617 *State of Madhya Pradesh Vs. Sheetla Sahai and Others*. Submission being that this is a mandatory provision and when a public servant is purportedly acting in his official capacity, the provisions of Section 197 of the Code are attracted. His last submission is based on the provision of Article 20 (3) of the Constitution of India; submission being that no accused can be asked to become a witness against himself. To substantiate this argument, learned counsel for the appellant submits that the specimen/admitted handwritings of the appellants were taken in the course of investigation by the Investigating Officer which was admittedly without the prior permission of the Magistrate which was wholly impermissible.

9 On behalf of appellant Ramesh Chand Chaturvedi, learned counsel for the appellant submits that he takes support of the arguments of his counter-part. His additional submission is that the internal audit report never surfaced in the years 2007-2008 and there is no evidence to show that inspections of the cash register were done on a day-to-day basis as is the requirement, the version of the prosecution suffers from infirmity on this count as well. Additional submission being that the testimony of PW-6 and PW-12 who were the ZROs disclose that there was a continuous change of duty of all the ZROs and in these circumstances, responsibility could not have been fixed upon any specific person and the conviction of the appellant who was only a peon and had never taken over the charge as NCR operator suffers from an illegality on this count as well. He has placed reliance upon the order dated 28.07.2007 to substantiate his submission that the name of Ramesh Chand Chaturvedi has been deleted from the office order dated 28.07.2007 meaning thereby that there was written document handing

over charge to Raj Kumar Sharma. He has also placed reliance upon Rule 3 (c) of the CCS Conduct Rules; submission being that there was no written order handing over charge to him.

10 Needless to state that these arguments have been countered by the learned counsel for the CBI.

11 Before adverting to the merits of the controversy which have been touched only by the learned counsel for appellant Ramesh Chand Chaturvedi, the arguments addressed by learned counsel appearing for A-1 shall be answered first.

12 Section 17 of the said Act contained in Chapter IV deals with the investigation of offence under the said Act and the persons who are authorized to investigate. It reads herein as under:-

"17. Persons authorised to investigate.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no police officer below the rank,—

(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;
(b) in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of section 8 of the Code of Criminal Procedure, 1973 (2 of 1974), of an Assistant Commissioner of Police;
(c) elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent rank,

shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant:

Provided further that an offence referred to in clause (e) of sub-section (1) of section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police."

13 There is also no doubt to the proposition that where the authority of a person to carry out the investigation is questioned on the ground that he has not fulfilled the statutory requirement, the burden is on the prosecution to establish the same. In the instant case, PW-14 had been given the charge of investigation. He was Inspector Anil Bisht. His deposition was to the effect that he has been promoted to the rank of Inspector in October, 2009 but at the relevant time, he was in the rank of a Sub-Inspector. He has deposed that this investigation was entrusted to him by Inspector Sapna Duggal and vide order dated 03.08.2009 by the Court of Shri O.P. Saini, Special Judge, he was granted permission under Section 17 of the said Act to investigate the case. He had accordingly conducted the investigation.

14 The order dated 03.08.2009 passed by the Special Judge has never been challenged. In fact no cross-examination of this witness has been effected on this score that there was no such order dated 03.08.2009. In his cross-examination, PW-14 had in fact admitted that the Superintendent of Police of the CBI has the power to appoint the Investigating Officer in any case.

15 The observations of the Apex Court in the context of Section 17 has held in AIR 1973 SC 913 *A.C. Sharma Vs. Delhi Administration* which still hold the forte and the relevant extract read herein as under:-

"21. As the foregoing discussion shows the investigation in the present case by the Deputy Superintendent of Police cannot be considered to be in any way unauthorised or contrary to law. In this connection it may not be out of place also to point out that the function of investigation is merely to collect evidence and any irregularity or even illegality in the course of collection of evidence can scarcely be considered by itself to affect the legality of the trial by an otherwise competent court of the offence so investigated. In H.N. Rishabud and Inder Singh v. State of Delhi MANU/SC/0049/1954 : 1955CriLJ526 it was held that an illegality committed in the course of investigation does not affect the competence and jurisdiction of the court for trial and where cognizance of the case has in fact been taken and the case has proceeded to termination the invalidity of the preceding investigation does not vitiate the result unless miscarriage of justice has been caused thereby. When any breach of the mandatory provisions relating to investigation is brought to the notice of the court at an early stage of the trial the court will have to consider the nature and extent of the violation and pass appropriate orders for such reinvestigation as

may be called for, wholly or partly, and by such officer as it consider appropriate with reference to the requirements of Section 5A of the Prevention of Corruption Act, 1952."

16 In 2015 (1) ACR 6 *Union of India Vs. T. Nathamuni* while relying upon the ratio of the judgment of *A.C. Sharma*, the Apex Court while reiterating this position has held that unless and until it is shown by the accused that the investigation conducted by a Sub-Inspector (for an offence under the said Act) has caused serious prejudice and miscarriage of justice, even presuming that there was invalidity of investigation, it would not vitiate the result.

17 The Apex Court quoting the relevant extract from the judgment pronounced in MANU/SC/0115/1992 *State of Haryana Vs. Bhajan Lal* had in this context held as under:-

"125. It has been ruled by this Court in several decisions that Section 5-A of the Act is mandatory and not directory and the investigation conducted in violation thereof bears the stamp of illegality but that illegality committed in the course of an investigation does not affect the competence and the jurisdiction of the court for trial and where the cognizance of the case has in fact been taken and the case is proceeded to termination, the invalidity of the preceding investigation does not vitiate the result unless miscarriage of justice has been caused thereby. See (1) H.N. Rishbud and Inder Singh v. State of Delhi (MANU/SC/0049/1954 : AIR 1955 SC 196); (2)Major E.G. Barsay v. State of Bombay MANU/SC/0123/1961 : (1962) 2 SCR 195; (3) Munna Lal v. State of Uttar Pradesh(MANU/SC/0067/1963 : (1964) 3

SCR 88; (4) S.N. Bose v. State of Bihar MANU/SC/0063/1968 : (1968) 3 SCR 563; (5) Muni Lal v. Delhi Administration MANU/SC/0147/1971 : 1971 (2) SCC 48, 6) Khandu Sonu Dhobi v. State of Maharashtra MANU/SC/0155/1972 : 1972 (3) SCR 510. However, in Rishbud case and Muni Lal case, it has been ruled that if any breach of the said mandatory proviso relating to investigation is brought to the notice of the court at an early stage of the trial, the court will have to consider the nature and extent of the violation and pass appropriate orders as may be called for to rectify the illegality and cure the defects in the investigation."

18 The ratio of the aforenoted judgment answers the argument propounded by the learned counsel for the appellant. The appellant had admittedly not raised the question of irregularity of the investigation at the stage of trial. This has been raised for the first time before the appellate Court. That apart it is not the case of the appellant that there has been any miscarriage of justice or any prejudice has been suffered by him in the investigation which has been carried out by PW-14. There is not a whisper of any argument on this score. This argument is thus without any merit. It is rejected.

19 The second submission of the learned counsel for the appellant based on the provision of Section 197 of the Cr.PC has been answered by the Trial Court in paras 31 & 32 of the judgment. The ratio of *Sheetla Sahai* relied upon by the learned counsel for the appellant has also been distinguished.

20 Section 197 (1) of the Cr.P.C. reads herein as under:-

"197. Prosecution of Judges and public servants.

(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction-

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government: [1] Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression" State Government" occurring therein, the expression" Central Government" were substituted.

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub- section will apply as if for the expression" Central Government" occurring therein, the expression" State Government" were substituted.

(3A) [1] Notwithstanding anything contained in sub- section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(3B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991 , receives the assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central Government in such matter to accord sanction and for the court to take cognizance thereon.]

(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magis- trate or public servant is to be conducted, and may specify the Court before which the trial is to be held."

21 The essential ingredients of this provision postulate that sanction for prosecution for the offence alleged against the public servant must have been committed while acting or purporting to act in the discharge of his official duty. It presupposes that the public servant acts in furtherance of the performance of his official duty. The act or omission must be in respect of an act wholly related to the performance of this

public duty.

22 It was this litmus test which was applied by the Special Judge to the acts of the appellant and it was rightly concluded that this protective cover which has been afforded for public servant not to be harassed unnecessarily where they are honestly performing their duties is a cover only available to such an honest officer. Where a public servant who is alleged to have committed the office of fabrication of the record or misappropriation of public funds, it cannot be said that he is discharging his official duty; his official capacity would not enable him to fabricate the record or misappropriate the public fund.

23 In this context, the observations of the Apex Court in AIR 1997 SC 2102 *Shambhoo Nath Misra Vs. State of U.P. and Others* are relevant and reads herein as under:-

"When any person who is a public servant not removable from his office, save by or with the sanction of the Government, is accused of any offence alleged to have been committed by him, while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the appropriate Government/authority".

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The protection of sanction is an assurance to an honest and sincere officer to perform his public duty honestly and to the best of his ability. The threat of prosecution demoralises the honest officer. The requirement of sanction by *competent authority of appropriate Government is an assurance and protection to the honest officer who does his official duty to further public interest. However, performance of Official duty under colour of public authority cannot be camouflaged to commit crime. Public duty may provide him an opportunity to commit crime. The Court to proceed further in the trial or the enquiry, as the case may be, applies its mind and records finding that the crime and the official duty are not integrally connected."*

24 A perusal of the sanction order (Ex.PW-9/A) shows that it is running into 8 pages and the sanction has been accorded after due application of mind and consideration of facts. The facts enumerated in the sanction order clearly show that the misappropriation and embezzlement has been carried out by the appellants and false entries in the cash book registers had been made. The second but last page of the sanction order clearly states that these acts constitute an offence punishable under Sections 120-B/409/468/471/477-A of the IPC and Section 13 (2) read with Section 13 (1)(c) of the said Act against both the appellants. The concluding paragraph of the sanction order reads herein as under:-

"Now, Therefore, I, Dharam Application, Member (Administration), Delhi Jal Board, do hereby accord sanction under Section 19 (1)(c) of Prevention of Corruption Act, 1988 for the prosecution of the said Shri Raj Kumar Sharma /so Shri K.B.L. Sharma, UDC/Casheier and Sh. Ramesh Chand Chaturvedi s/o Sh. B.B. Chaturvedi, Peon-cum-Asstt. Meter Reader/NCR Operator, Delhi Jal Board for the

said offence and any other offences punishable under any other provision of law in respect of acts aforesaid and for the taking of cognizance of the said offence by a court of competent jurisdiction."

25 The sanction has been accorded for the Section 19 (1)(c) of the said Act as also for the other offences (detailed supra in the sanction order) punishable with any other law in respect of acts aforenoted and these penal provisions are nothing but the penal provisions of the IPC. This second argument of the learned counsel for the appellant is also without any merit.

26 The last argument of the learned counsel for the appellant is that under Article 20 (3) of the Constitution of India, the accused cannot be forced to give incriminating evidence against himself and the specimen/admitted handwriting taken by the Investigating Officer without prior permission of the concerned Court and the GEQD opinion which is based on this handwriting is liable to the discarded.

27 PW-14 was the Investigating Officer. He has admitted that he had taken the specimen handwriting of the appellants. His deposition on oath was that accused Raj Kumar Sharma had given his specimen handwriting and put his signatures at point 'C' in the presence of Uttam

Kumar. The specimen handwritings of accused Ramesh Chand Chaturvedi were taken in the presence of an independent witness Deepak Kumar on the sheets S-86 to S-110, he had also voluntarily given his specimen signatures/handwriting. The argument of the learned counsel for the appellant that Uttam Kumar and Deepak Kumar have not been examined (in whose presence the specimen handwritings were given) is an argument noted to be rejected.

28 It is not an argument propounded before this Court that these specimen handwritings had not been given. The argument before this Court is that these specimen handwritings cannot be relied upon for the reason that they were taken without the permission of the concerned Court.

29 PW-7 (beldar) working in the office of ZRO had identified the specimen handwriting of Raj Kumar Sharma as he was working with him. The handwritings of A-2 were identified by Mohd. Mian (PW-11) and Dilip Kumar (PW-12). The Court had reiterated that there was no ulterior motive on the part of PW-11 and PW-12 to depose against A-2 falsely.

30 In this context, the observations of the Full Bench of this Court decided in *Bhupinder Singh Vs. State* delivered in Criminal Appeal No.1005/2008 on 30.09.2011 had answered the referred question which reads herein as under:-

““Whether the sample finger prints given by the accused during investigation under section 4 of the Identification of Prisoners Act, 1920 without prior permission of the Magistrate under Section 5 of the Act will be admissible or not?””

31 The Full Bench relying upon the Single Bench of this Court in *Sunil Kumar Vs. State* in Criminal Appeal No.446/2005 decided on 25.03.2010 had relied upon the extract of this judgment of the Single Judge which reads herein as under:-

“In view of the independent powers conferred upon a police officer under Section 4 of the Act, it was not obligatory for him to approach the Magistrate under Section 5 of the Act. He would have approached the Magistrate, had the appellants refused to give Specimen Finger Print Impressions to him. Therefore, no illegality attaches to the specimen finger print impressions taken by the Investigating Officer. The court needs to appreciate that the very nature and characteristic of material such as finger prints renders it intrinsically and inherently impossible for anyone to fabricate them. If there is an attempt to fabricate finger prints, that can certainly be exposed by the accused by offering to allow his finger prints to be taken so that the same could be compared through the process of the court. None of the appellants has come forward to the court with a request to take his finger print impressions in

the court and get them compared with the chance finger prints lifted by PW-1 from Car No. DL 2C A 4116 on 21st December, 2000"

32 Reliance was also made upon the earlier judgment of the three Judges Bench of the Apex Court in (1978) 3 SCC 435 *Shankaria Vs. State of Rajasthan.* The Apex Court dealing with the provision of Sections 4 & 5 of the Identification of Prisoners Act, 1920 has held that a police was competent under Section 4 of the Identification of Prisoners Act to take specimen finger prints of an accused; it was not necessary for him to obtain an order from the Magistrate for obtaining these specimen finger prints. The Full Bench having answered this reference in the aforesaid manner, it is clear that the specimen handwriting/signatures taken by the Investigating Officer during the course of investigation, even presuming that they were without prior permission of the concerned Magistrate, does not suffer from an illegality. It was not obligatory for the Investigating Officer to approach the Magistrate to obtain the specimen finger prints/impression in view of the powers which were conferred upon her under Section 4 of the Identification of the Prisoners Act.

33 This argument of the learned counsel for the appellant is accordingly rejected.

34 The submission of the learned counsel for the appellant Ramesh Chand Chaturvedi that the Internal Audit Reports had not been produced and they had never surfaced and there were procedural irregularities is also an argument without any merit. Mahabir Singh (PW-1) was the Account Officer working in the Delhi Jal Board and functioning as a Junior Accountant in the Internal Audit Branch. Joginder Pal (PW-2) (retired Accountant) was also working in the Audit Branch at the relevant time. PW-1 has deposed that on the examination of the cash book there were short falls in the collection of cash from 02.02.2008 and the same had not been deposited in the official account of Delhi Jal Board with the Corporation Bank. A detailed chart has been reproduced in the judgment. The document i.e. Ex.PW-1/D had evidenced that an amount of Rs.17,56,177/- had been misappropriated. Further evidence qua the testimony of PW-1 had also been appreciated noting that there was no deposit of cash with the collecting agency and the signatures and acknowledgment with the stamps were not on the relevant pages of the

cash books (Ex.PW-1/B and Ex.PW-1/D). The Internal Audit had been conducted. There was no irregularity in the procedure. The argument that no written orders had been handed over to Ramesh Chand Chaturvedi for carrying out his duties as a cashier, peon, or NCR operator is negatived by the document dated 28.7.2007 (Ex.PW-6/C) and the document 06.7.2007 (Ex.PW-6/B). Vide Ex.PW-6/A Smt.Bala Gupta, the earlier LDC was released and directed to hand over the charge of her seat to Raj Kumar Gupta (A-1). Vide Ex.PW-6/B, the Office of ZRO had in its circular while making changes in the areas of the Meter Readers had directed that with immediate effect Ramesh Chand Chaturvedi (A-2) would work as the NCR operator at the Patel Nagar Branch.

35 The accused persons both of whom were public servants had thus been collecting cash from the consumers of the Delhi Jal Board but having failed to deposit the amount in the official account i.e. handing over the cash to the cash collection agency and not having deposited them in the bank; coupled with the forgery in the entries Ex.PW-7/A, Ex.PW-7/G, Ex.PW-7/H and Ex.PW-13/A (which had been confirmed

by the GEQD opinion evidencing that the questioned articles were in the handwriting of the appellant) had put the final nail on the coffin.

36 This Court notes the period of incarceration already suffered by the appellants. This Court also notes that they are first time offenders. However, the embezzlement which is of huge amount of public money which is at the cost of the public consumer is the other side of the story which also cannot be ignored.

37 In this background, this Court is not inclined to modify the sentence which is already on the lower side.

38 Appeals are without any merit. Dismissed.

INDERMEET KAUR, J

SEPTEMBER 17, 2015
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