

Criminal Revision no.397 of 2015 (O&M)

Date of decision: 05th April, 2016

Rakesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Shakti Bhardwaj, Advocate,
for the petitioner.

Mr. P.S.Grewal, DAG, Punjab,
for the respondent(s)-State.

INDERJIT SINGH, J.

Petitioner Rakesh Kumar has preferred the instant revision petition against respondent-State of Punjab, against the impugned judgment dated 28.08.2012, passed by the Addl. Chief Judicial Magistrate, Ferozepur vide which he was held guilty under Sections 409, 465, 467, 468, 471 IPC and convicted and sentenced to undergo rigorous imprisonment for a maximum period of 04 years each and to pay fine under Sections 467 and 471 IPC and acquitted under Section 420 IPC and also against the judgment dated 24.12.2014, passed by the Addl. Sessions Judge, Ferozepur vide which the appeal filed by the petitioner against the aforesaid judgment of conviction and order of sentence, was dismissed.

Notice of motion was issued. Learned State counsel appeared and contested the instant petition. Record of the learned Courts below was also requisitioned and received.

The facts of the case, as recorded by the learned trial Court, are as under:-

“Brief facts of the prosecution case are that the instant case was registered on the basis of a letter written by Superintendent Post Office Ferozepur division to the SSP, Ferozepur alongwith an application forwarded by the natives of village Khai PHEME Ke wherein they stated that Branch of Post Office was opened in their village, where Rakesh Kumar son of Hans Raj is working as Branch Post Master for the last 20 years. Due to his long tenure in the Branch, the people of the village were having faith upon said Rakesh Kumar and as such, the villagers have deposited rupees in lacs in the said branch of Post Office, but accused Rakesh Kumar is very cunning person and he prepared false and fake documents and used to keep money of the public with him, also he never deposited that amount with the department. As such he has committed a fraud of rupees more than 1 crore. The complainants/depositors, number of times, deposited their amounts, but accused Rakesh Kumar called pass books of post office from all the depositors on 15.10.2011 on the pretext that the same require renewal but thereafter, he destroyed the said pass books and managed to flee from the village. It was also heard that he was indulge in the illegal business of fake currency and they further make request that a criminal case be registered against the accused and appropriate action be taken. Further in his letter Kamlesh Chauhan also wrote to SSP, Ferozepur

regarding forgery committed by accused Rakesh Kumar son of Hans Raj, Branch Post Master, Khai PHEME Ke by referring the complaints of residents of village Khai PHEME Ke that Rakesh Kumar Branch Post Master of the said branch, had committed fraud in SB/RD accounts and the office of Superintendent Post Officer, Ferozepur Division directed Shri Kailash Partap Meena Assistant Superintendent and Shri Dheeraj Kumar, Sub Division Inspector to make an inquiry in this matter and accordingly Shri Kailash Pratap Meena reported that Rakesh Kumar has absconded from the branch office and there is no concrete record that how much fraud he has committed. It can only be ascertained after verification of the record of Post Office and further requested that a wireless message to the police stations be flashed, so that the culprit may be arrested at the earliest. Upon that complaint, matter was referred to the Economic Wing Ferozepur for inquiry and accordingly, a detailed inquiry was conducted by ASI Samma Singh who concluded the inquiry by giving finding that from the inquiry, it is found that Rakesh Kumar, Branch Post Master Khai PHEME Ke, used to make fake entries in the pass books of the depositors and further never entered any entry in the relevant register of the Post Officer. He also prepared 6 fake and frivolous pass books and as such, accused Rakesh Kumar after making fake and frivolous entries,

embezzled/misappropriated an amount approximately Rs.85,89,346.65p and further submitted that a case under Section 409/420/ 465/467/468/471 IPC may be registered against accused Rakesh Kumar.

The prosecution, in order to prove its case, examined the witnesses who deposed as per prosecution version and it is the case of the prosecution that accused has made misappropriation/embezzlement of an amount of Rs.43,53,679.30p.

The statement of accused under Section 313 Cr.P.C. was recorded in which he denied the allegations levelled against him and claimed himself to be innocent and falsely involved in this case.

The trial Court, while appreciating the evidence, convicted and sentenced the petitioner-accused, as stated above. The petitioner filed appeal against the judgment of conviction and order of sentence, which was also dismissed by the learned Appellate Court.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

The prosecution examined 14 witnesses in this case out of which PW2 Ved Parkash, PW3 Vijay Kumar, PW4 Maura Singh, PW6 Charan Dass, PW7 Baljit Singh, PW8 Satpal, PW9 Jagtar Singh and PW10 Mohinder Singh are the account holders and they categorically deposed in their respective examination in chief that accused has misappropriated/embezzled the amount whatsoever they deposited time to time and the version of the account holders has been inquired by PW1 ASI Samma Singh. These PWs have consistently deposed regarding the prosecution version and also

regarding the embezzlement of their amount, made by the accused.

PW5 Kailash Partap Meena as well as PW14 Dheeraj Kumar verified and checked the record and have deposed that money from these accounts have been embezzled by the accused.

Learned counsel for the revision petitioner contended that signatures of the accused were not got compared from the finger print expert. As per prosecution version, only the accused was posted in Branch Post Office at village Khai PHEME KE from the last 20 years. So many prosecution witnesses deposed regarding depositing of the amount in the said post office saving accounts and that amount has not been deposited by the present petitioner and has been misappropriated and the false entries were made in the pass book etc. and lakhs of rupees have been embezzled. Both the learned Courts below have returned the concurrent findings of fact against the petitioner. There is nothing on the record that the petitioner was having any enmity or motive. There is also nothing on the record to disbelieve the statements of prosecution witnesses. The prosecution witnesses have consistently deposed regarding prosecution version.

In view of aforesaid discussion, this Court finds that the findings returned by the learned Courts below are as per law and evidence on record and, in no way, these findings can be held as perverse. Nothing has been pointed out as to which illegality has been committed by the learned Courts below and also nothing has been pointed out at the time of arguments as to how the findings, returned by the learned Courts below, can be held as perverse.

Learned counsel for the petitioner has not pointed out as to which material evidence has been misread and as to which material evidence has not been considered by the learned Courts below. This is a revision petition and in the revision petition this Court is not to reappreciate the evidence like the Court of appeal. Perusal of the record shows that the findings have been returned as per law and no illegality has been committed by the learned Courts below. In view of the huge embezzlement by the accused, no lenient view can be taken against him. The petitioner has been rightly convicted and sentenced by the learned Courts below. The impugned judgments, passed by the learned Courts below, do not require any interference by this Court and the same are upheld.

Therefore, finding no merit in the instant petition, the same is dismissed.

05th April, 2016
mamta

(INDERJIT SINGH)
JUDGE