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

+ CRL.REV.P. 704/2016

ANIL KUMAR

..... Petitioner

Through :Mr. Madan Mohan Jha and Mr.
Mukesh Singh, Advs.

versus

THE STATE OF NCT

..... Respondent

Through :Mr. M.P. Singh, APP with SI Manoj,
P.S. Kanjhawala

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **02.11.2016**

Crl. M.A. no. 17015/2016 (exemption)

Allowed, subject to all just exceptions. Application is disposed of.

CRL.REV.P. 704/2016, Crl. M.A. no. 17016/2016 (stay) & Crl. M.B. No. 1961/2016 (for suspension of sentence)

Petitioner was convicted under Section 409 IPC and sentenced to undergo simple imprisonment for two years with fine of ₹5,000/- by the trial court. Petitioner preferred a Criminal Appeal No. 11/2016 before the Additional Sessions Judge (North-West District), which has been disposed of vide judgment dated 20th October, 2016 and the same has been challenged

by the petitioner in the revision petition under Section 397 of the Criminal Procedure Code, 1973.

As per the prosecution, petitioner was posted as Branch Postmaster at Post Office Punjab Khore, within the jurisdiction of Police Station Kanjhawla from 19th December, 2000 to 6th August, 2003. As per the prosecution, petitioner was working as public servant and misappropriated government money to the tune of ₹2,39,224/- from 36 saving bank accounts and 34 recurring deposit accounts. Petitioner fraudulently used as genuine, certain documents like passbook knowing that the same were forged documents and has also intentionally altered entries in the passbook. During the trial, Lokesh Kumar, Postal Assistant was examined as PW2; C.P. Saraswat, Assistant Superintendent of the Rohini Post Office was examined as PW3; Sukhnandan Dhoundiyal, ASP Vigilance of the postal department was examined as PW4; Satbir Singh, account holder of saving account no. 3346081 was examined as PW5. Other account holders, namely, Sumer Singh, Yashvinder Kumar, Raj Singh, Promila Singh and Rajesh Sachdeva, were examined as PW7, PW8, PW9A, PW10 and PW11 respectively. Manohar Lal Arora, Office Assistant in the office of Senior Superintendent, North Division Post Office was examined as PW12. All these witnesses

have supported the prosecution case regarding misappropriation of the funds from the aforesaid accounts and their testimonies have been held to be trustworthy and reliable by the trial court as well as Appellate Court upon meticulous examination. Both the courts have given concurrent findings of fact that offence of misappropriation of the funds was proved beyond shadow of reasonable doubts, on appreciation of statements of aforesaid witnesses coupled with relevant documents, duly proved on record.

There are concurrent findings of courts below based on appreciation of evidence, which cannot be interfered with by the High Court in exercise of its supervisory jurisdiction under Section 397 of the Cr.P.C. on re-appreciation of evidence. No flagrant violation of any legal principle or any perversity is pointed out during the course of hearing, inasmuch as learned counsel for the petitioner has given up challenge to the conviction of petitioner on merits. He has only prayed for leniency in the sentence. Petitioner has faced agony of trial for about 15 years. He is a poor person having a family which is dependent on him. Petitioner has already refunded the misappropriated amount to the account holders. Petitioner has remained in custody for about a month. Keeping in mind the totality of circumstances and facts, while upholding the conviction of petitioner, his sentence is

reduced to the period already undergone by him.

Petition is disposed of in the above terms. Miscellaneous applications are disposed of as infructuous. Dasti.

A.K. PATHAK, J.

NOVEMBER 02, 2016
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