

IN THE HIGH COURT OF JUDICATURE AT PATNA
Govt. Appeal (DB) No.24 of 1991

Arsing out of the judgment dated 4th March, 1991 passed in Criminal Appeal No.100 of 1987 arising out of G.R. Case No.2024 of 1980 (Trial Case No.233 of 1987) by 1st Addl. Sessions Judge, Vaishali at Hajipur.

State

... .. Appellant/s

Versus

Kapildeo Singh

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Parmeshwar Mehta, A.P.P.
For the Respondent/s	:	Mr. Shravan Kumar, Senior Advocate
		Mr. Rajiv Nayan Singh, Advocate
		Mr. Baban Roy, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 07-10-2017

This is an appeal filed by the State Government challenging the acquittal of the respondent Kapildeo Singh by the 1st Additional Sessions Judge, Vaishali at Hajipur vide judgment dated 4th March, 1991 in Criminal Appeal No.100 of 1987.

Respondent Kapildeo Singh was convicted by the trial Court to undergo two years rigorous imprisonment and fine of Rs.2,000/- for an offence under Section 409 of the Indian Penal Code. The said conviction having been set aside on appeal by the Sessions Court, acquittal by the Sessions Court is challenged by the State Government.



Respondent Kapildeo Singh was working as a Treasury Guard and in the FIR lodged on 21.11.1980, it is said that Kapildeo Singh along with Shailendra Kumar Sharma and Satendra Prasad Singh and Lalan Singh, Work Sarkars, had gone to the State Bank of India, Lalganj for encashing a cheque of Rs.30,000/-. After reaching the office, Shri Shailendra Kumar Sharma, the cashier, gave the key of the chest to the accused Kapildeo Singh to keep the amount in the chest of the office, but it is stated that Kapildeo Singh ran away with the amount.

On the basis of the report lodged, Kapildeo Singh was prosecuted and sentenced hereinabove. However, on an appeal being filed, the learned appellate court has meticulously scrutinized the evidence in the surrounding circumstances and after evaluating the evidence has come to the conclusion that in the FIR lodged and in the statement given by Sri Shailendra Kumar Sharma, an eye witness, there are serious discrepancies. Even though P.W. 6 Nawal Kishore Prasad Singh was examined to prove the case, but he has stated that at the time of the incident, he was in the residence of the Executive Engineer and he had not seen the accused run away with the money. Similar is the statement of Baidyanath Prasad, P.W.5 and even P.W.3 Satendra Narain Singh who is said to have an eye witness to the incident has not



supported the case of the prosecution. P.W.4 who is also an eye witness to the occurrence has stated about the amount being kept in the chest.

On going through the detailed judgment rendered by the Sessions Judge, this Court finds that the learned Sessions Court has dealt with various aspects of the matter and finding the case of the prosecution not proved beyond doubt have acquitted the respondent Kapildeo Singh.

Taking note of the totality of the circumstances, I am of the considered view that there is no error in the order passed by the learned Additional Sessions Judge acquitting the respondent-accused Kapildeo Singh and no case is made out for interference. The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2017
Transmission Date	10.10.2017

