

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.297 of 2018

In

Civil Writ Jurisdiction Case No.35 of 2016

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Sujeet Kumar Barnawal, Son of Nageshwar Prasad Barnawal, Resident of village - Marcho, P.S. Marcho, District - Kodarma.

... .. Petitioner/Appellant

Versus

1. The Chief General Manager, State Bank of India (S.B.I.), Patna, Bihar.
2. The Deputy General Manager, S.B.I., Muzaffarpur, Bihar.
3. The Disciplinary Authority- Cum - Regional Manager, S.B.I. Bettiah, Bihar.
4. The Chief Manager, S.B.I. Bettiah, Bihar.
5. Kundan Kumar, Son of Rameshwar Rao, Rao Daily Wager Staff of S.B.I. Main Branch Bettiah, resident of village – Dhadha, Bilashpur, P.S. Dhadur, (Nawalpur), Distt. - Champaran, (West Champaran).
6. Mahendra Chaudhary, son of late Asharfi Lal Chaudhary, resident of village - Chanddhura, P.O. Makar, P.S. Makar, District - Saran at present Posted as Deputy Manager, S.B.I., Main Branch, Bettiah, Bihar
7. Upendra Chaudhary, Assistant S.B.I. Main Branch, Bettiah, Bihar.

... .. Respondents/Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Nath Sinha, Advocate

For the S.B.I. : Mr. Anjani Kumar Mishra, Advocate
Mr. Sunil Kumar Singh, Advocate
Mr. Ambarish Bhardwaj, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-03-2019

Re.: Interlocutory Application No.1716 of 2018

Heard learned counsel for the appellant and learned counsel for the respondent-Bank.

The cause shown is sufficient. The delay is condoned. The appeal shall be treated to be within time.



Interlocutory Application stands disposed of.

Re.: L.P.A. No. 297 of 2018

Heard learned counsel for the appellant and learned counsel for the respondent-Bank.

The dismissal of the appellant on account of charges of misappropriation of amount while functioning at the Cash Counter of the Main Branch of the State Bank of India, Bettiah, is the cause of grievance before this Court. The appeal filed by the appellant in the departmental proceedings was also dismissed that came to be challenged before the learned Single Judge in the writ petition giving rise to the present appeal which has ultimately been dismissed holding that the matter stands concluded by the question of fact which has been established on the basis of evidence on record and since the charges have been proved, therefore, there is no ground for interference made out under Article 226 of the Constitution of India.

Learned counsel for the appellant has vehemently urged that three aspects appear to have been omitted to be noticed and have not been considered as a result whereof the enquiry proceedings are vitiated. The first is that the appellant had categorically made an allegation that he was forced to work with one Kundan Kumar Rao who used to collect the amount at



the Cash Counter. For this, the second argument is that the availability of the CCTV Footage could have been looked into for substantiating the same which was not done during the proceedings and the third argument is that so far as reversing the entries in the scroll are concerned, the appellant did not have the power to carry out any such reversals in respect of transaction over Rs.35,000/- which would be evident from the computer entries which evidence was not produced in spite of request made by the appellant.

Thus on the above three grounds it is urged that the enquiry has not been fairly conducted and has prejudiced the cause of the appellant who could have established it by way of evidence that the appellant was not responsible for any such embezzlement or pilferage of the deposits having been made.

We have considered the submissions advanced and have also heard the learned counsel for the Bank on whose behalf affidavits have been filed. There is one principal fact which could not be dislodged by the appellant either during the enquiry proceedings or even thereafter, namely, that the deposit receipts and counter foils have been counter signed by him. This fact of having issued the receipts is therefore admitted. The defence appears to be that there was some other person who was



actually collecting the cash and it is he who may have not deposited the amount in the cash counter of the Bank.

This argument does not impress us inasmuch as even assuming for the sake of argument that there was some other person who was not authorised, then it was the duty of the appellant to have objected to the same and complained about it in writing as it clearly involved the handling of the cash at the cash counter. The appellant cannot shift his burden of liability by merely pleading his innocence and ignorance and the plea that he was a simple novice at the time when he had entered the service at Bettiah Branch of the Bank.

In our considered opinion, he being the officer authorised to sign the receipts, the same having been admitted by him, the aforesaid fact is sufficient to accept the probability of the involvement of the appellant in the pilferage of the amount which has been made the basis of the charges. The appellant, therefore, did not lead any evidence so as to contradict the aforesaid material which was placed by the Bank to indict and find the appellant guilty of the said charge.

The defence taken is that had the CCTV Footage being produced and had the computer entries being shown during the enquiry proceedings, the appellant could have



established the involvement of Mr. Kundan Kumar Rao and could have also established that it was not possible to reverse the scroll entries on his own. Even assuming for the sake of argument that this evidence could have been utilised to set up some defence, the fact of having signed the receipts of deposits has not been denied. In this background, it cannot be said that any such absence of further material has vitiated the enquiry or absolves the appellant of the basic charge of misappropriation when admittedly he was handling the cash counter at Bettiah Branch of the Bank.

Consequently, we do not find any merit in the submissions raised for assailing the conclusions drawn by the learned Single Judge. The appeal fails and is hereby dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

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