

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 320 of 2009

Bhaktu @ Bhagtu Ram Sahu, S/o. Budhram Sahu, Aged about 82 years, R/o. Hohdipat, Police Station Arjunda, District Durg (C.G.)

----Applicant

Versus

State of Chhattisgarh through the Station House Officer, Bemetara, District Durg (C.G.)

---- Respondent

For Applicant : Mr. Amit Kumar Sahu, Advocate

For Respondent/ State : Mr. Aman Kesharwani P. L.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board passed on 28.02.2019

By the judgment under challenge passed on 03.07.2009 by Additional Sessions Judge (FTC) Bemetara District Durg (C.G.) in Criminal Appeal No. 30 of 2007, the findings recorded by the learned Judicial Magistrate First Class Bemetara, District Durg (C.G.) convicting the accused/applicant under Sections 409 and 468 IPC and sentencing him to undergo RI for 8 months and to pay fine of Rs. 1500 u/s 409 IPC and RI for 8 months and to pay fine of RS. 1500/- u/s. 468 IPC with default stipulation.

2. Case of the prosecution, in brief, is that Station House Officer of Police Station Bemetara received a complaint from the office of the Collector, Zila Panchayat Durg wherein it is stated that when the Panchayat was abolished he had handed over the charge to the applicant who was the Gram Sahayak of the said

village. It was further stated that cash of Rs. 2645.60/- was given to him as in-charge and during the period from 20.09.1977 to 30.09.1977 the applicant shown forged expenses of Rs. 1000/-. On registration of case and completion of investigation, the challan was laid by the police under sections 409, 420 and 468 IPC.

3. Having taken into consideration the material on record, the trial Court convicted the accused/applicant under Sections 409 and 468 IPC and sentenced him to undergo RI for 8 months and to pay fine of Rs. 1500 u/s 409 IPC and RI for 8 months and to pay fine of RS. 1500/- u/s. 468 IPC. On appeal, learned lower appellate Court has affirmed the same. Hence, this revision.

4. Certificate dated 10.12.2018 issued by Chhattisgarh Government shows that the accused/applicant died on 28.10.2018. Though the accused/applicant died during the pendency of this revision yet in the light of the order passed by the Hon'ble Apex Court in the matter of **Pranab Kumar Mitra vs. State of WB** reported in **AIR 1959 SC 144**, this Court proceeds to decide this case on its merits.

5. Learned counsel for the applicant submits that the order impugned being contrary to the evidence on record is liable to be set aside. Counsel for the respondent, however, supports the same

6. Heard the State counsel and perused the evidence on record.

7. From the evidence of witnesses (PW-1), (PW-5), (PW-7) (PW-9), (PW-11) and (PW-15), it is clear that the accused/applicant committed criminal breach of trust being a public servant by dishonestly misappropriating a sum of Rs. 2645.60 and during the period from 20.09.1977 to 03.09.1977 the applicant has prepared forged expenses bill of Rs. 1000/-. B.L. Ahirwar (PW-8) is the investigating officer and he too has fully supported the case of the prosecution. In overall view of the matter, conviction of the accused/applicant under Sections 409 and 468 IPC being based on the evidence collected by the prosecution does not suffer from any illegality or infirmity and it is maintained accordingly.

8. Revision therefore being without any substance is liable to be dismissed and it is dismissed as such.

Sd/-
(Vimla Singh Kapoor)
JUDGE