

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 172 of 2009

Tribhuwan Singh, S/o Shri Bodhrai Halwai, aged about 56 years,
R/o Village Tatenga, P.S. Devri, Tahsil Doundilohara, District Durg
(CG) ----- Applicant

Versus

State of Chhattisgarh through Police Station – Pinkapar, District
Durg (CG) --- Respondent

For Applicant : Mr. Tarun Dadsena, Advocate

For Respondent : Mr. Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

08/05/2019

Allegation against the accused/applicant is that on 20.09.1985 the complainant namely Sukrit Ram Sahu (PW-4) had gone to the Post Office at Village Tatenga where he was operating Saving Account No.302205. The accused/applicant who at the relevant time was posted as Deputy Post Master had accepted the money amounting to Rs.10,000/- from the complainant and made an entry to that effect in the Pass Book carried by the complainant also but surprisingly instead of depositing the money in the exchequer and making an entry thereof in the record maintained by it, he used the same for his own expenses. In the audit made in the year 1987 this act of the accused/applicant came to light. On being informed to the Additional Superintendent of Postal Department, Durg by the complainant (PW-4), the matter was reported to the Police and FIR (Ex.P-1) for the offence under Section 409 IPC was registered and the matter was put under investigation.

2. Learned Magistrate vide judgment dated 26.12.2006 found the act of the accused/applicant proved and thus held him guilty under Section 409 IPC and sentenced him to undergo RI for 3 years with fine of Rs.5000/- plus default stipulation. The appeal preferred against the judgment dated

26.12.2006 has also been dismissed by affirming the judgment impugned dated 27.08.2008 as a whole. Hence this revision.

3. Having heard counsel for the parties and perused the evidence of the complainant PW-4, and Ravi Shankar (PW-3) who had gone to the Post Office along with PW-4 on the date of incident, it is apparent that the accused/applicant being posted in the Post Office, Tatenga had accepted an amount of Rs.10,000/- and made an entry thereto in the Pass Book being maintained by PW-4. PW-1 who at the relevant time was posted as Inspector in the Postal Department has also corroborated the testimony of PW-3 and PW-4. Likewise, PW-7 and PW-12 have also supported the case of the prosecution, may be partially. This apart, from the evidence of PW-1 and PW-7 it is also indicated that in order to save his service career the accused/applicant had returned the entire amount so embezzled, which shows that the accused/applicant himself has admitted his guilt. Thus the factum of embezzlement by the accused/applicant being a public servant is not in dispute and being so both the Courts below appear to be fully justified in convicting the accused/applicant under Section 409 IPC. It is hereby maintained.

4. As regards sentence, since the incident which had taken place in the year 1985 and came to light in the year 1987 after the audit report dated 10.12.1987 was issued, taking into consideration the fact that the applicant being in his advance age and must have suffered a lot by now and also keeping in view that the amount so misappropriated has been returned to the complainant PW-4, this Court feels it in the interest of justice to reduce the jail sentence imposed on him to the period already undergone which in this case comes to about 1 year and 3 months. Order accordingly.

5. Revision is thus allowed in part.

**Sd/-
(Vimla Singh Kapoor)**

Judge