

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 176 of 2006

Rameshwar Prasad Sao, aged about 29 years, S/o Shri Chmapat Ram, R/o Kudumbkala, Police Station and Tahsil Gharghora, District Raigarh (C.G.)

---- Applicant

Versus

The State of Chhattisgarh through the District Magistrate, District Raigarh (C.G.)

--- Respondent

For Applicant : Shri Deepak Kumar Jain, Advocate

For State/Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

19/02/2019

The allegation against accused/applicant who at the relevant time was the Salesman of Adim Jati Seva Sahkari Samiti (hereinafter referred to as “**Samiti**”) is that he committed misappropriation of Rs.1,07,063.93/- at Kudunkela Sales Centre; of Rs.45,395.42/- at Kosomghat Sales Centre and Rs.51,141.51/- of Faguram Sale Centre. Written Report (Ex.P-1) in this respect was lodged by the Branch Manager of the Samiti.

2. On the basis of material available on record learned Magistrate found the accused/applicant guilty under Section 409 IPC and imposed the sentence of RI for 2 years with fine of Rs.4,000/- plus default stipulation by judgment dated 30.11.2004. The finding of conviction recorded by learned Magistrate has been affirmed in appeal vide judgment under challenge in this revision dated 27.02.2006.

3. Counsel for the applicant does not press this revision on merit and his sole request is for reduction of the sentence imposed on the applicant to the period already undergone which in this case comes to about 15 days. State counsel however supports the judgment impugned and

submits that both the Courts below have not committed any error in convicting and sentencing the accused/applicant as mentioned above.

4. The record shows that during various periods the accused/applicant committed criminal breach of trust in misappropriating the articles meant to be distributed to the needy ones under the Public Distribution Scheme and committed the offence under Section 401 IPC in the capacity of a public servant. The documents seized under Ex.P-3 to P-5 also support the case of the prosecution which shows that the stock to be maintained and the money deposited by him as sale proceeds of the articles in the custody of the accused/applicant did not tally to each other. Mere delay in lodging the report as argued by counsel for the accused/applicant, cannot be said to be a mitigating factor in the like cases.

5. Both the Courts below have appreciated the evidence on record in proper perspective and being so no illegality or infirmity in the same is visible to this court worth interference with the same. In these circumstances, conviction of the accused/applicant under Section 409 IPC is hereby maintained.

6. As regard sentence, keeping in view the fact that incident had taken place in between 1992-93 and that a quite long period has rolled by since then, and further that he had already been inside for about 15 days, this Court thinks it just and proper that interest of justice would be served if the sentence imposed on the accused/applicant is reduced to the period already undergone. Order accordingly. Fine sentence however is left unchanged.

7. Revision is allowed in part as stated above.

Sd/-
(Vimla Singh Kapoor)

Judge