

HIGH COURT OF CHHATTISGARH, BILASPUR
Criminal Revision No. 212 of 2005

Vidyanand, Aged about 56 years, S/o. Shri Ram Snehi Verma,
R/o. Village Paraswani, P.S. Bhatapara (Village) District Raipur
(C.G.)

----Applicant

Versus

State of Chhattisgarh, through P.S. Bhatapara, District Raipur
(C.G.)

---- Respondent

For Applicant : None
For Respondent/ State : Ms. M. Asha, P.L.

Hon'ble Smt. Justice Vimla Singh Kapoor
Order on Board passed on 07.01.2019

By the judgment under challenge passed on 09.05.2005 by Additional Sessions Judge Baloda Bazar, in Criminal Appeal No. 12 of 2005, the findings recorded by the learned Judicial Magistrate First Class Baloda Bazar, convicting the accused/applicant under Sections 409 IPC and sentencing him to undergo RI for two years and to pay fine of Rs. 3000/- have been modified.

2. Case of the prosecution, in brief, is that in the year 1985-86, the applicant was posted as accountant in Krishi Upaj Mandi, Bhatapara and during his tenure the applicant misappropriated the government money i.e. Rs. 16,132.44/- on 01.12.1986, Rs.838.45/- on 01.12.1986, Rs. 1050/- on 06.12.1986, Rs 365.90/- on 10.12.1986, Rs. 500/- and Rs. 1000/- on 26.11.1986

and Rs. 8429/- on 26.12.1986. On the basis of written report (Ex.P-9), FIR (Ex.P 96) of the misappropriation was lodged by the President of Krishi Upaj Mandi in Police Station Bhatapara against the applicant under Section 409 IPC.

3. Having taken into consideration the material on record, the trial Court convicted the accused/applicant under Section 409 IPC and sentenced him to undergo RI for 2 years with fine of Rs. 3000/- in default of payment of fine additional RI for two months. On appeal, learned lower appellate Court has modified the same. Hence, this revision.

4. There is a certificate dated 01.04.2010 issued by Government of Chhattisgarh which shows that the accused/applicant herein died on 11.03.2010 i.e. during the pendency of this revision. However, this Court has to decide the case on its own merits, in view of the order passed by the Constitution Bench of Supreme Court in the matter of **Pranab Kumar Mitra v. State of WB reported in AIR 1959 SC 144.**

5. Here in this revision the applicant/accused remained unrepresented. State counsel however supports the judgment under assail and submits that the Courts below have recorded the well reasoned finding while writing the judgment impugned and therefore, no interference there-with is needed by this Court.

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

7. Having heard counsel for the State and perused the material available on record including the evidence of PW-3, PW-14 and

PW-15, which shows that at the relevant point of time the applicant was posted as accountant in the Krishi Upaj Mandi Bhatapara and in the capacity of public servant, he was entrusted with the job. The record thus clearly suggests the involvement of the accused/applicant in misappropriating the register and putting the Krishi Upaj Mandi at a great loss, this Court does not see any legal error in the findings recorded by both the Courts below convicting the accused/applicant under Section 409 IPC and imposing the sentence as show above. The judgment impugned is hereby maintained.

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

Sd/-
(Vimla Singh Kapoor)
JUDGE