

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 558 of 2006

Judgement reserved on 19.02.2019

Judgement delivered on 11.12.2019

Pankaj Sahu S/o. Shri Sudama Sahu, Aged about 38 years, Clerk cum Cashier, District Cooperative Bank, Dongargaon, District Rajnandgaon (C.G.) Presently R/o. Yatish Sahu, Near Trilochan Bal Mandir, Kelabadi, Durg, District Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh, through the Collector, Rajnandgaon District Rajnandgaon (C.G.)

---- Respondent

For the Applicant : Mr. Adil Minhaj, Advocate
For the Respondent : Mr. A.N. Bhakta, Dy. A.G.

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

Facts of the case, in short, are that on account of irregularities in the bank record, Deputy Registrar Cooperative Society, Rajnandgaon, appointed B.L. Rana as auditor to conduct special audit of the bank. On the basis of inquiry report (Ex.P-1), FIR was lodged against the applicant in police station alleging that during the period from 17.07.1990 to 14.10.1997 the applicant and other co-accused have committed embezzlement

of Rs. 12,44,688/- by manipulating in the accounts of 190 account holders. It is further alleged that in many cases, the amount to be deposited by the depositors was not actually deposited in the accounts of the Cooperative society but the amount was kept in fixed deposit in the account of his wife account as well as in his own name. After completion of investigation *Challan* was filed and the charge came to be framed against him under Section 409 IPC.

2. Learned Magistrate having perused the material before it convicted the accused/applicant under Section 409 IPC and sentenced him as above, which on appeal has been affirmed by the judgment impugned. Hence, this revision.

3. Counsel for the applicant submits that the Courts below have committed an error in appreciating the fact that the applicant was cashier and was not responsible for making entry into the ledger book and only clerk of the bank was responsible for making entries in the ledger book. He submits that both the Courts below committed an error in relying upon the statement of PW-1 and PW-4 which were itself contradictory to each other. He further submits that the Courts below have committed an error in convicting and sentencing the accused/applicant as mentioned above though the evidence led by the prosecution was lacking and therefore, the same may be set aside.

4. State counsel however, supports the findings recorded by both the Courts below.

5. I have perused Ex.-P/1 which is written complaint made by auditor B.L. Rana, to Station House Officer Dongargarh against the applicant in which it was stated that during the period when the embezzlement to the tune of Rs. 12,44,688/- took place accused/applicant was working as Cashier and his duty was to receive the amount and enter the same in the Cashiers scroll and made entry in the pass book. The prosecution has established its case under seizure memos under Ex.P-2, Ex.P-3 and Ex.P-4 in which the names of different accounts holders with their account numbers were mentioned. From the audit report Ex.P- 1, it is revealed that the amount to be deposited by the depositors was not actually deposited in the accounts of the Cooperative society but the same was deposited in the account of his wife as well as himself which were seized under exhibit B.

6. From the evidence of witnesses (PW-1), (PW-2), (PW-3) (PW-4), and (PW-5), it is clear that the accused/applicant committed criminal breach of trust being a public servant and cheated the account holders by dishonestly misappropriating a sum of Rs. 1244688/-. S.K. Netam (PW-3) is the investigating officer and he too has fully supported the case of the prosecution. In view of the over all facts and circumstances of the case, this Court is of the view that the courts below have appreciated the evidence which came before them in proper perspective and there is no reason to interfere with the said findings of Courts below, therefore, the judgment impugned is hereby confirmed.

7. Revision thus fails and is hereby dismissed.

Sd/-

(Vimla Singh Kapoor)

JUDGE

santosh