

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.239 of 2004

Rasananda Patra

....

Petitioner

Ms. Arunima Das, Advocate

-versus-

State of Odisha

...

Opposite Party

Mr. J. Katikia, AGA

**CORAM:
THE CHIEF JUSTICE**

Order No.

**ORDER
09.09.2022**

08. 1. The present revision petition is directed against the judgment dated 10th March, 2004 of the Additional Sessions Judge (ASJ), Baripada disposing of Criminal Appeal No.55/49 of 1999/1998, acquitting the Petitioner of the offence under Sections 468 and 420 IPC while confirming the conviction and sentence under Section 409 IPC thereby partly allowing the appeal against the judgment dated 21st August, 1998 of the Chief Judicial Magistrate (CJM), Mayurbhanj in G.R. Case No.823 of 1994 / Trial Case No.26/97. The sentence in respect of offence under Section 409 IPC was rigorous imprisonment (RI) for one year with fine of Rs.1,000/-, in default to undergo further RI for one month.
2. The Petitioner was working as the Sub-Post Master of Manitri Sub-Post office since 1991. In that capacity, he has to receive

deposits in savings book accounts and recurring deposit accounts by putting his initials in respective pass books. The allegation against the Petitioner was that he had misappropriated Rs.9,950/- which came to light during the inspection undertaken by the Sub-Divisional Postal Inspector of Barsahi. 13 witnesses were examined by the prosecution. However, the Appellate Court has in its Judgment held that there was no evidence of commission of forgery or cheating by the Petitioner and accordingly acquitted him of the offences under Section 468 and 420 IPC.

3. Learned counsel for the Petitioner points out that as far as the sentence awarded for the offence under Section 409 IPC is concerned, the Petitioner is an old man of 79 years and has already faced the ordeal of criminal prosecution for over 28 years. He is also a victim of leprosy. He states that he is entitled to the benefit of the Probation of Offenders Act, 1958 (POA). Reliance was placed on the decision in *Saradhakar Sahu v. State of Orissa*, 59 (1985) CLT 297.

4. Having considered the above submission and the submissions of learned Additional Government Advocate for the State, the Court is of the view that the sentence awarded to the Petitioner for the offence punishable under Section 409 IPC be modified to one of fine of Rs.1,000/- and in default to undergo RI for one month and to extend the provisions of POA to the Petitioner by requiring him to furnish a personal bond of good behaviour with one surety to the satisfaction of the trial Court. In other words, if there is a violation of the conditions of the personal bond, the

Petitioner would have to suffer the substantive sentence of RI for one year.

5. The criminal revision petition is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

M. Panda

