
(2011) 08 SHI CK 0097

In the High Court Of Himachal Pradesh

Case No : Criminal Appeal No. 652 of 2002

State of H.P.

APPELLANT

Vs

Chet Ram

RESPONDENT

Date of Decision : 12-08-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 408, 409

Citation : (2011) 08 SHI CK 0097

Hon'ble Judges : Sanjay Karol, J;Deepak Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—This appeal by the State is directed against the judgement of the learned Additional Chief Judicial Magistrate, Arki, District Solan, dated 14.3.2002 whereby the accused has been acquitted of having committed offences punishable under Sections 408 and 409 Indian Penal Code.

2. The prosecution story, in brief, is that the accused Chet Ram, at the relevant time, was working as Branch Postmaster in Saryanj. In that capacity he used to receive money from the general public to be deposited in the accounts maintained in the post office. Two persons Krishan Lal and Jamana Dass were alleged to have their accounts in branch post office, Saryanj.

3. In May, 1993 a complaint was received by the Superintendent, Post Office, Solan that the accused had abused his position and had misappropriated the amounts deposited by Shri Krishan Lal and Sh. Jamana Dass. The Superintendent thereafter deputed one Shri Uma Dutt Gautam to conduct an inquiry into the matter who submitted his inquiry report, in which he found that the accused had temporarily misappropriated a sum of Rs. 3,500/- and there was a permanent misappropriation of Rs. 8,400/-. Thereafter, F.I.R was registered, investigation conducted and the accused was challaned and charged with having committed the offences aforesaid.

4. The learned trial Court acquitted the accused on the ground that the prosecution has failed to prove that the accused was guilty of misappropriation of any amount since the persons whose amount were allegedly misappropriated did not support the prosecution case.

5. In a case of criminal breach of trust it is incumbent up on the prosecution to prove the entrustment of the property. Without proving entrustment, No. conviction for an offence of criminal breach of trust can be made. The allegation of the prosecution is that Krishan Lal had given a sum of Rs. 8400/- to the accused for being deposited in his account but the same was never deposited in his account and thus the accused was guilty of misappropriating the amount. The second allegation against the accused was that Jamana Dass had given a sum of Rs. 3,500/- which he did not deposit immediately and kept the amount with him for a sufficiently long period and deposited the amount much later. The case of the prosecution that the amount was handed over to the accused by Shri Krishan Lal on 5.3.1991 but he in fact deposited the same on 27.4.1991 and he kept this money with him for this period. The prosecution for reasons best known to it did not examine Krishan Lal at all. Therefore, the very basic evidence of the entrustment of the property of Krishan Lal has not been proved.

6. As far as Jamana Dass is concerned, he No. doubt was examined as PW-3 but when he was examined in Court he did not say a word that he had given any amount to the accused. All that he stated was that at the asking of Uma Dutt Gautam the Inquiry Officer he had handed over a copy of the pass book. This does not show that any amount was entrusted with the accused.

7. Therefore, we find No. merit in the appeal, which is accordingly rejected. The bail bonds furnished by the accused are discharged.