

(2013) 01 PAT CK 0033

In the Patna High Court

Case No : Govt. Appeal (SJ) No. 02 of 2008

The State of Bihar

APPELLANT

Vs

Navin Kumar Mishra

RESPONDENT

Date of Decision : 24-01-2013

Acts Referred:

Citation : (2013) 01 PAT CK 0033

Hon'ble Judges : Mandhata Singh, J

Bench : Single Bench

Advocate : Parmeshwar Mehta, app, for the Appellant; Janardan Prasad Singh, Prakash Kumar and Mr. Manoranjan Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Mandhata Singh, J.—Prosecution case initiated on the basis of written report of one Dr. Bimal Kumar, Incharge District Malaria Officer (PW-8), in brief, is that under the scheme for eradication of Kalazar, D.D.T. was to be sprayed at Sangrampur and Kharagpur Block. For this purpose the accused-respondent was entrusted who happens to be employee of Malaria Department. Spraying work completed in the year 1997-98. It was reported by Incharge of Primary Health Centre, Sangrampur that workers deployed for spraying work were not paid their wages upto 30.03.1999. Allegation is that for this purpose accused-respondent received Rs. 79537/- from District Malaria Officer Dr. Laxmi Narain Rajak. Spray work of D.D.T. at Primary Health Centre, Khagaria was not reported by this accused-respondent. So, the allegation is that he misappropriated all the amount entrusted to him for distribution of the same to workers deployed as their wages. After trial case was ended in conviction and sentence to accused-respondent, but on appeal the same ended in acquittal after allowing the appeal, legality of which has been questioned through filing this appeal on behalf of Government.

2. All the twelve (12) prosecution witnesses, exhibits on its behalf, witness on behalf of defence and its exhibits are fully discussed by the Appellate Court. After going through the record, it appears that it is admitted to the parties that cheque

for the purpose was encashed by accused-respondent, thereafter, he handed over the money to the informant. It is statement of PW-8 informant of the case in his examination-in-chief itself that on 04.12.1998 Navin Kumar Mishra (accused-respondent) came with Rs. 1,04,787/- and requested him to keep the money for the night only, the same was to be distributed among the labourer deployed in spray work. Accordingly, this witness received the money, on next day returned the same to accused-respondent, but this story is missing in exhibit-16, which is written statement part of first information report in signature of PW-8 informant of the case. On the point of this payment, exhibit-C is filed on behalf of the defence, which is admitted/ accepted to the informant that he received the money for payment of wages (Paragraph-24). He further accepts that accused-respondent is technical hand, so was made Incharge to oversee the spray work. Under the discussed circumstance exhibit-5 showing receipt of the money by accused-respondent has rightly been disbelieved. Accused-respondent has examined himself as DW-1 to state that his signature was obtained on a blank paper, which was used for execution of exhibit-5. After going through exhibit-5, it apparently appears that there is some gap in recital and signature of the accused-respondent. So, I find no mistake committed by the Appellate Court in acquitting the accused-respondent of the charges levelled against him after allowing the appeal.

Accordingly, this Government Appeal is dismissed hereby.