

(1986) 03 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 213 of 1986

Vijay Kumar

APPELLANT

Vs

State of U.T.Chandigarh

RESPONDENT

Date of Decision : 11-03-1986

Acts Referred:

Citation : (1986) 03 P&H CK 0032

Hon'ble Judges : Surinder Singh, J

Advocate : Vinod Sharma, H.S. Brar, U.T. Administration, Advocates for appearing Parties

Judgement

Surinder Singh, J.

1. Vijay Kumar was convicted by the Judicial Magistrate Ist Class, Chandigarh, under Section 408 of the Indian Penal Code and was sentenced to one year's rigorous imprisonment for the said offence. His appeal was dismissed by the Additional Sessions Judge, Chandigarh. The present revision petition was filed by him with a view to impugn his conviction and sentence aforesaid.
2. Notice in this case, at the motion stage, was issued only in regard to the sentence, as the learned counsel for the petitioner did not impugn the conviction under Section 408 of the Indian Penal Code. He, however, stressed that the sentence imposed upon the petitioner is excessive.
3. The gravamen of the charge against the petitioner is that at the relevant time the petitioner was a salesman of sector 35 outlet of the Punjab State Federation of Consumers Cooperative Whole Sale, Chandigarh. In that capacity he had to handle some cash receipts and prepare vouchers for the same. The sale proceeds had to be deposited with the Accountant. The petitioner worked as salesman from October 1, 1976 to August 23, 1977, and on the last mentioned date he resigned from the job. The charge against the petitioner was that he had committed embezzlement of the funds of the "retail outlet" to the tune of Rs. 13,524.42/-. After his prosecution and trial the liability of the petitioner which had

been substantiated by the prosecution was found to be Rs. 6,611.48 paise, in respect of which he was convicted and sentenced.

4. The sole contention of the learned counsel for the petitioner is that the dispute in regard to the amount due from the petitioner and certain amounts which his employer owned to him on account of wages, etc., was adjudicated upon by the Arbitrator by means of an award and according to that award a substantial amount was found payable to the petitioner. This is, however, not within the purview of the present revision petition, though it may be a consideration for reducing the sentence imposed upon the petitioner.

After hearing the learned counsel for the parties I find that the period of confinement already undergone by the petitioner would meet the ends of justice provided the loss incurred by the employer is made good by the petitioner. Accordingly while confirming the conviction of the petitioner under Section 408 of the Indian Penal Code, the sentence of imprisonment is reduce to the period of confinement already undergone by him. However, a fine of Rs 6,611.48 paise is imposed upon the petitioner for the said offence. In default of payment of this fine the petitioner shall undergo three months" rigorous imprisonment. If the fine is deposited by the petitioner, he shall be released from confinement and the amount so deposited shall be paid to the employer Federation to cover the loss incurred by it.

5. As regard the claim of the petitioner on the basis of an award, which is said to have been made in his favour, it would be open to the petitioner to pursue the matter independent of the present case. The revision petition stands disposed of accordingly.