

Ved Prakash Handooja

Vs

Delhi Administration

Criminal Appeal No. 34 of 1974

(H. R. Khanna, P. K. Goswami JJ)

20.03.1974

JUDGMENT

KHANNA, J. -

1. The appellant was tried in the Court of Magistrate 1st Class Delhi for an offence under Section 409 Indian Penal Code and was acquitted. On appeal filed by the State, the Delhi High Court reversed the judgment of the trial Court and convicted the appellant under section 409 Indian Penal Code and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 9,000 or in default to undergo rigorous imprisonment for a further period of six months. It was also directed that out of the fine, if recovered, Rs. 8,898.38 to be paid to the Delhi Milk Scheme. The appellant then came up in appeal to this Court by special leave. The leave was, however, restricted to the question of sentence only. This Court also directed that the appellant be enlarged on bail so as to be in a position to raise resources to pay the amount of the imposed upon him.

2. The appellant was employed as a cash clerk in the Delhi Milk Scheme. His duty was to collect cash from the milk depots assigned to him. It is stated that from September 18, 1966 to September 23, 1966 the appellant received Rs. 8,898.38 from the depot managers of the various depots which were under his charge, but failed to deposit the same with the Delhi Milk Scheme. The appellant absented himself with effect from September 24, 1966. Report to the police was thereupon made by the Administrative Officer of the Delhi Milk Scheme on September 27, 1966. A case was thereupon registered under Section 409 Indian Penal Code against the appellant. After investigation the appellant was sent up for trial. At the trial the appellant in his statement under Section 342 of the Code of Criminal Procedure stated that he became ill on September 18, 1966 and as such could not collect the cash amounts from the various depot managers. The appellant further stated that because of his illness he had gone to Karnal. It was denied by the appellant that he had embezzled any amount.

3. The High Court after considering the material on record came to the conclusion that the prosecution case about the appellant having committed criminal breach of trust of the sum of Rs. 8,898.38 was proved against him beyond doubt. The appellant was accordingly convicted and sentenced as above.

4. As mentioned earlier, the only question with which we are concerned is with regard to the sentence which should be awarded to the appellant. The appellant has during the pendency of the appeal deposited Rs. 9,000 with a view to reimburse the Delhi Milk Scheme to the extent of Rs. 8,898.38. In our opinion, it would meet the ends of justice if the sentence of imprisonment awarded to the appellant is reduced to the period already undergone by him provided the pays, in addition to

the amount deposited, a fine of Rs. 2,000. We order accordingly. In default of payment of fine, the appellant shall undergo rigorous imprisonment for a further period of three months. The amount of fine may be deposited in this Court today.

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