

**SUPREME COURT OF INDIA**

S. Natarajan

Vs.

State of Mysore (Special Police Establishment)

Crl.A.No.214 of 1973

(S. Murtaza Fazl Ali and A. D. Koshal, JJ.)

23.01.1979

**JUDGEMENT**

**FAZAL ALI, J.:-**

1. In this appeal by special leave the appellant has been convicted under S. 409, I. P. C. and sentenced to 6 months' rigorous imprisonment and under S. 5 (1) (c) read with S. 5 (2) of the Prevention of Corruption Act to 6 months' imprisonment. It appears that the appellant was a junior Cashier and was disbursing the Provident Fund of Retired Officers. A sum of Rs. 2,196/- which was meant to be disbursed to P. W. 2 Venugopal Naidu was withheld by the appellant and money was not paid to him on account of some mistake. Venugopal Naidu then made a complaint to the Divisional Pay Master and the mistake was ultimately detected on 22-5-1971. On 1st of June, 1971 the appellant disbursed the entire amount to Venugopal on account of withdrawal of Provident Fund. It is therefore merely a case of temporary retention of money for a short while. The accused has already lost his service and in the facts and circumstances of this case we think that no serious notice may be taken of the offence. The appeal itself was confined only to the question of sentence. For these reasons we would reduce sentence of the appellant under S. 409, I.P. C. to the period already served and as regards the conviction under S. 5 (1) (c) reading with S. 5 (2) of Prevention of Corruption Act we suspend the sentence and release the appellant under Sec. 360 of the Cr. P. C.

and maintain the sentence of fine and direct him to execute a personal bond of Rs. 2,000/- for a period of one year and maintain good behaviour during this period, failing which he will have to receive the remaining portion of his sentence. The sentence of fine is maintained. With this modification the appeal is disposed of.

Ordered accordingly.