

Bhagwan

Vs

State of Maharashtra

Criminal Appeal No. 203 of 1974

(Syed M. Fazal Ali, A. D. Koshal JJ)

07.02.1979

JUDGMENT

FAZAL ALI, J. –

1. In this appeal by special leave the appellant has been convicted under Section 409/34 IPC. We have heard counsel for the appellant and have also gone through the judgment of the trial Court and the evidence. We are unable to find any error of law in the judgment of the High Court so as to warrant our interference in special leave. The only point argued by the appellant was that the High Court has not considered the effect of the statement made by the accused under Section 342, CrPc. We have carefully gone through the statement under Section 342 and having regard to the facts of this case we are unable to accept the explanation given by the accused regarding the wrong entries made by the accused in the measurement book. We are also satisfied that the confession made by the appellant was voluntary and accused has not shown that it was made under appellant duress or coercion. We are, therefore, satisfied that the case against the appellant is proved beyond reasonable doubt.

2. It was next contended that having regard to the fact that the appellant was a new recruit to the department and was inexperienced and appears to have been made a scapegoat, a lenient view on the question may be taken. In our opinion this contention is well founded and must prevail. We understand that the accused has already done five months in jail. In these circumstances, therefore, we do not think that the ends of justice require that the accused should be sent back to jail. While upholding the conviction, we reduce the sentence of imprisonment from three years to the period already served and maintain the fine. The appellant will be discharged from the bail bonds if he has paid the fine. With this modification the appeal is dismissed.

</html