

State of Maharashtra

Vs

Vithal Rao Pritirao Chawan

Criminal Appeal No. 549 of 1981

(D.A. Desai, R.B. Misra JJ)

20.07.1981

JUDGMENT

DESAI, J. –

1. We have heard Mr. O.P. Rana learned counsel for the appellant and Mr. G.D. Sathe learned counsel for the respondent.
2. The only question that arises is whether the prosecution has successfully established the entrustment of Rs. 1453.18 to the accused and that he received that amount in discharge of his official duty, so that a liability in law will arise for him to account for the same. At present we propose to express no opinion on this point because in our view this is not a case where the High Court should have refused leave to appeal without assigning reasons. If we would have had the benefit of the view of the learned Judge of the High Court who refused to grant leave on the question as to how he came to the conclusion that the transfer of the charge by making necessary entry in the cash book of cash handed over to the accused does not constitute entrustment, we would certainly have been able to examine the correctness of the view. This point would require fuller arguments. Neither directly nor indirectly we propose to express any opinion on this important point save and except that the point raised by the appellant did require examination by the High Court. It would be for the benefit of this Court that a speaking judgment is given.
3. Accordingly, we allow this appeal, set aside the order of the High Court refusing to grant leave to appeal and direct the High Court to restore the appeal on its file. The High Court will dispose of the appeal after hearing both sides within three months from today.

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