

Bihar State Food & Civil Supplies Corpn.

Vs

Narendra Kumar Mishra And Another

Criminal Appeal No. 1578 of 1995

(K. Ramaswamy, S. B. Majmudar JJ)

28.11.1995

ORDER

1. Leave granted.

2. It is stated that the first respondent was posted as an Assistant Godown Manager in the Stores. Within a period of three months, he committed defalcation/misappropriation of Rs 2,61,859.30. The misappropriation of the said amount took place during the period of 1976 and earlier. A departmental enquiry commenced on 12-12-1979 and initially the prosecution was laid in 1985 without obtaining the sanction. The learned Magistrate discharged the respondent on the ground that the sanction as required under Section 197 of the Code of Criminal Procedure, 1973 was not obtained. In 1991, the sanction was obtained and thereafter the prosecution was laid. The High Court unfortunately has interfered with the matter exercising its jurisdiction under Section 226 on the ground that there was a delay of 15 years in laying the prosecution. This was most unfortunate that the High Court would have interfered but having regard to the distance of time at this stage, it is not appropriate to interfere with the matter which is at a stage of even starting of the trial.

3. Having considered the totality of the fact of abnormal delay, it is not a fit case for our interference under Article 136 of the Constitution. We are constrained to dismiss the appeal on this ground.