

SUPREME COURT OF INDIA

Naresh Chaubey

Vs.

Central Bureau of Investigation

CrI.A.No.1963 of 2017

(Arun Mishra and L.Nageswara Rao,JJ.,)

16.11.2017

JUDGMENT

L.Nageswara Rao,J.,

SLP(CrI.)No.7132 of 2015

1. Leave granted. The Appellant was convicted under Sections 420, 471, read with Section 465 of the Indian Penal Code, 1860 (for short "the IPC) and Sections 13(1)(c), (d) and 13(2) of the Prevention of Corruption Act, 1988 (for short "the PC Act). The Appellant was sentenced to undergo rigorous imprisonment of three years for the offences punishable under the IPC and two years for the offences punishable under the PC Act. The conviction and sentence of the Appellant was affirmed by the High Court, aggrieved by which the above appeal is filed.

2. The Animal Husbandry Officer, Gohan-Go-Vikas-Prakhand, Muzaffarpur, received information that wrongful withdrawal of treasury bills was being made. He constituted a Committee for scrutinizing the suspected bills. The Committee found that an amount of Rs.6,00,000/- was embezzled. On the basis of the report submitted by the Animal Husbandry Officer, P.S. case no.200/ 95 was registered under Sections 467, 468, 420 and 409 of the IPC. Pursuant to orders passed by the High Court of Judicature at Patna and this Court, all cases pertaining to misappropriation of funds in the Animal Husbandry Department were directed to be investigated by the Central Bureau of Investigation (CBI). The CBI registered a case No.30/A/96- Pat under Sections 120(b), 467, 468, 420 read with 409 and Section 13(1)(c) and (d) of the PC Act. On completion of the investigation, a charge sheet was filed and cognizance was taken by the Court on 19th February, 1997. Charges were framed against the Appellant and two others for wrongful withdrawal and misappropriation of money from the treasury on the basis of the forged bills.

3. The prosecution examined 22 witnesses and several documents were filed to prove the charges against the Appellant and other accused. The Appellant who was working as Dealing Assistant in the Treasury received three bills Exhibit 3/5 - 3/7 and recommended

them for payment, though, he was not authorised to deal with the bills of Animal Husbandry Department. These bills were not brought to the treasury through messenger book. The evidence of PWs 8, 10, 11, 12, 13, 14 and 18 was relied upon by the prosecution to prove that the Appellant was guilty of the charge.

4. On thorough examination of the entire evidence on record and after considering the submissions made by the prosecution and the defence, the trial court convicted the Appellant and the other two accused under Sections 420, 465, 467, 468 and 471 of the IPC and Sections 13 (1)(c) and (d) of the PC Act. The Appellant was sentenced to undergo three years rigorous imprisonment for the offences punishable under the IPC and two years imprisonment for the offences punishable under the PC Act to run concurrently by taking note of the fact that the Appellant had already retired from service. The trial court further took notice of the age of the Petitioner and his ill-health while imposing the sentence. The Appellant along with the other two accused filed an Appeal in the High Court. The High Court scrutinised the entire evidence on record. After examining the submissions made by the counsel of both sides, the High Court found no fault with the judgment of the trial court and affirmed the same.

5. This court issued notice in the SLP filed by the Appellant on 4th September, 2015. On 6th September, 2016, the Appellant was granted bail by this Court on the ground that he had already undergone 20 months out of the maximum sentence of three years imposed on him.

6. We have examined the judgments of the courts below and we are of the opinion that there is no error committed in holding the Appellant guilty of the offences alleged. Both the courts below have thoroughly examined the oral as well as documentary evidence on record and dealt with the submissions made on behalf of the defence in a detailed manner. It is settled law that this Court need not re-appreciate evidence while affirming the judgments of the courts below in criminal cases. To satisfy our conscience, we have examined the judgments and found that there is sufficient material on record to show that the Appellant had indulged in acts of misappropriation and embezzlement of public funds by unauthorizedly processing bills which he received not through proper channel. We do not consider it necessary to repeat the reasons that have been assigned by the courts below while convicting and sentencing the Appellant. We, accordingly, confirm the conviction of the Appellant.

7. While considering the question of sentence, the trial court in the year 2002 observed that the Appellant was 60 years old and was suffering from ill-health. We are informed that the Appellant has undergone 20 months out of the sentence of 36 months, that he is 75 years old now and is suffering from several ailments. Considering the aforementioned, we are of the view that the sentence imposed on the Appellant by the trial court and affirmed by the High Court be modified to the period already undergone by the Appellant. The Appellant is on bail. His bail bonds stand discharged.

8. The Appeal is disposed of accordingly.