

State Vs. Atmaram Vaikunth Bhende

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SooperKanoon Citation : sooperkanoon.com/352728

Court : Mumbai

Decided On : Feb-28-1956

Reported in : AIR1956Bom671; 1956CriLJ1195

Judge : Dixit and ;Chainani, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 477A; [Code of Criminal Procedure \(CrPC\), 1898](#) - Sections 32 and 423

Appeal No. : Criminal Appeal No. 148 of 1956

Appellant : State

Respondent : Atmaram Vaikunth Bhende

Advocate for Def. : Govt. Pleader

Advocate for Pet/Ap. : K.B. Sukhtankar, Adv.

Judgement :

Chainani, J.

1. In this case, the accused has been convicted under Section 477-A, Indian Penal Code, on three charges and sentenced to two months' rigorous imprisonment and a fine of Rs. 1000/- or in default to four months' rigorous imprisonment, on each charge. The substantive sentences have been ordered to run concurrently.

2. The accused has requested that the substantive sentences passed upon him may be enhanced, but the sentences awarded to him in default of payment of fine may be reduced. He has stated in his appeal memo that if the substantive sentences are enhanced, he will get the advantage of remissions, to which he would be entitled under the Jail Rules.

3. We do not think that this would be a sufficient ground for reducing the sentences awarded to the accused in default of payment of fine. The accused has also stated that out of Rs. 3,000/- which is said to have been misappropriated, Rs. 2,000/- have been recovered from other parties, who had also received some benefit out of the amounts misappropriated.

We are informed by the learned Government Pleader that the total amount misappropriated is about Rs. 14,000/- and that about half of this has been recovered. The learned Magistrate has awarded four months' R.I. in default of payment of fine imposed on each count, evidently in order that the accused may be induced to pay at least a part of the amount misappropriated by him. In doing so, we cannot say that the learned Magistrate has exercised his discretion wrongly. No sufficient grounds have, therefore, been shown for our interfering with the order passed by the learned Magistrate.

4. The appeal is dismissed.

5. Appeal dismissed.