

State Vs. Omparkash Mann

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Court : Delhi

Decided On : Jul-12-2005

Reported in : 122(2005)DLT419

Judge : Manmohan Sarin and; Rekha Sharma, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 409

Appeal No. : Criminal Misc. A. No. 4080/2005 in Crl.L.P. No. 67 of 2005

Appellant : State

Respondent : Omparkash Mann

Advocate for Def. : Ravinder Chadha, APP

Advocate for Pet/Ap. : Akshay Bipin, Adv

Disposition : Application dismissed

Judgement :

ORDER

1. Learned Counsel for the State has attempted with great perseverance to submit that the respondent/accused has failed to produce the records and, hence, the prosecution was fully justified in drawing adverse inferences regarding shortfalls in stocks leading ultimately to his conviction under Section 409, IPC.

2. We have perused the judgment of the Trial Court as also of the Appellate Court. We find that the First Appellate Court upon appreciation of evidence, reached the conclusion that the prosecution had failed to produce the stock register as was seized. The sales cash statements consisting of 204 pages and other statements consisting of 216 and 172 pages seized on 3rd June, 1987 were also not produced.

3. The Appellate Court concluded that the production of these documents was necessary to connect the valuation of the alleged shortage to the charges framed against the appellant. The Appellate Court also held that the Investigating Officer too was not examined who could explain the circumstances in which these documents were not produced.

4. We are in agreement with the reasoning of the First Appellate Court. We also find that the appeal has been preferred after an inordinate delay of 226 days. We dismiss the application for condensation of delay as also Leave Appeal bearing No. 67/2005.