

Subedar Singh Vs. State of Rajasthan

Subedar Singh Vs. State of Rajasthan

SooperKanoon Citation : sooperkanoon.com/770741

Court : Rajasthan

Decided On : Jul-27-1987

Reported in : 1987WLN(UC)618

Judge : Vinod Shankar Dave, J.

Appeal No. : S.B. Cr. Revision Petition No. 112 of 1987

Appellant : Subedar Singh

Respondent : State of Rajasthan

Judgement :

Vinod Shankar Dave, J.

1. The petitioner who was a Nazir in the Court of Munsif and Judicial Magistrate, Hindaun is alleged to have embezzled Rs. 10,075/- and hence a report was lodged against him at police station, Hindaun by the then Munsif, Hindaun. This report was based on the audit of the accounts and the police thereafter investigated the case and filed two separate charge-sheets against the accused for offences under Sections 409 and 477A, IPC. The offences are alleged to have been committed during the period 1976 to 1978. The case was tried by Addl. Chief Judicial Magistrate, Gangapur City who convicted and sentenced the accused as under:

(1) Under Section 409, IPC for 3 years' rigorous imprisonment and a fine of Rs. 3000/-, in default of which 6 months' further imprisonment.

(2) Under Section 477A, IPC for 2 years' rigorous imprisonment and a fine Rs. 1000/-, in default of which 6 months' further imprisonment.

2. Accused filed unsuccessful appeals before the Addl. Sessions Judge, Gangapur City and his conviction and sentence was maintained. Thereafter he filed this revision petition before this court.

3. Mr. Kaushik appearing for the accused vehemently argued that on perusal of the statement of the then Reader of the Court case cannot be said to have been proved. He also submitted that the record of departmental enquiry against the Reader should have also been summoned. He also raised the point of sanction. But after arguing for some time he realised that the scope in revision petition is very limited and there is no such infirmity or illegality in the judgment to call for an interference in revision-petition. He thus confined his arguments only to the quantum of sentence. His submission was that due to the conviction the accused has lost job for last more than two decades and he will, suffer very heavily financially and otherwise also. It is submitted that his wife is a patient of tuberculosis and the age of his eldest son is 10 years. He has, therefore, several liabilities and in case he stays in jail for a period of three years his entire family will be ruined. He also submitted that the case has been registered in 1978 and for 9 years he has to suffer pains of this case.

4. I have given my due consideration to all the facts and circumstances of this case. I am in agreement with the findings arrived at the learned courts below which do not call for any interference. There are two revisions in this court as the accused has been sentenced in both the case. I have not found any order in either of the two cases where the learned courts below might have directed the sentences in both the case to have run concurrently and the result would be that the accused will have to suffer the sentences as separately in each of the case and that would be, in the circumstances of the case, very heavy on the petitioner. Ends of justice would meet in case sentence of accused is reduced from 3 years to 2 years for offence under Section 409 IPC and sentence of fine is reduced from

Rs. 3000/-to Rs. 1,000/-and sentence under Section 477A, IPC and that in default of payment of fine on each count is maintained. I will also direct that sentence of imprisonment shall run concurrently.

5. It is further directed that sentence in this case shall run concurrently with the sentence passed in Criminal Appeal No. 31/85. Thus sentence in both the cases shall run concurrently. Total period of sentence would be 2 years and the accused-petitioner shall be entitled to set off under Section 428, Cr.PC in both the cases.

6. This revision-petition is disposed of as indicated above.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com