Santosh Raj Vs. State

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Court : Jammu and Kashmir

Decided On : Mar-24-2005

Reported in : 2005(2)JKJ381

Judge : S.K. Gupta, J.

Acts : Jammu and Kashmir Prevention of Corruption Act, 2006 - Section 5(1) and 5(2); ;Ranbir Penal Code (IPC) - Section 409

Appeal No. : Cr. Ist. Appeal No. 07/1997

Appellant : Santosh Raj

Respondent : State

Advocate for Def. : B.S. Slathia, AAG

Advocate for Pet/Ap. : S. Kour, Adv.

Disposition : Appeal dismissed

Judgement :

S.K. Gupta, J.

1. This appeal is directed against the judgment and order dated 30-4-1997 passed by the learned Special Judge, Anti-Corruption, Jammu.

2. By means of the impugned judgment and order dated 30.4.1997 passed in file No. 16/Anticorruption, titled State through VOJ v. Santosh Raj, the trial Court, after holding the accused-appellant guilty of offences under Section 5(2) of the Jammu & Kashmir Prevention of Corruption Act, 2006 and under Section 409 RPC in three different charges relating to three different periods. For the charge relating to the year 4/84 to 3/85 he was sentenced to undergo five years' rigorous imprisonment and a fine of Rs. 50,000/- and in default of payment of fine to suffer further imprisonment of the like nature for a period of six months for the offences under Section 5(2) of the Jammu & Kashmir Prevention of Corruption Act, 2006, and for offence Under Section 409 RPC to undergo rigorous imprisonment for a period of five years and a fine of Rs. 5000/-, and in default of payment of fine to further suffer imprisonment of the like nature of six months. For the charge relating to the period 4/85 to 3/86, for the commission of offence under Section 5(2) of the Jammu & Kashmir P.C. Act, the accused has been sentenced to undergo rigorous imprisonment of five years and a fine of Rs. 2.00 lacs and in default of payment of fine to undergo further imprisonment of the like nature for a period of six months and for offence under Section 409 RPC, to undergo rigorous imprisonment for a period of five years and a fine of Rs. 5000/- and in default of payment of fine, to undergo further imprisonment of like nature for a period of six months. For the charge relating to the period 4/86 and 5/86 for commission of the offence under Section 5(2) of the P.C.A, the accused has been sentenced to undergo rigorous imprisonment of five years and a fine of Rs. 30.000/- and in default of payment fine, to undergo further imprisonment of like nature for a period of six months, and for the offence under Section 409 RPC, to undergo rigorous imprisonment for a period of five years and a fine of Rs. 5000/- and in default of fine to undergo further imprisonment of like nature for a period of six months. All the sentences have been ordered to run currently.

3. Facts of the case that culminated in the prosecution of the person who was arrayed as accused-appellant before the trial Court, depicted in narration, are that Santosh Raj, accused-appellant was the Store Keeper in Food and Supplies departmental Store, Kathua from April, 1984 to May, 1986. PW N.L. Bakshi, the then Director, Food and Supplies Department had ordered the audit of the Food and Supplies departmental Store, Kathua in June, 1986. Pursuant to his order, an

audit party comprising of PWs Sudagar Mal, Chaman Lal, Harbans Lal and Ravinder Singh was constituted, under the supervision of PW M.L.Baghati, Chief Accounts Officer, vide order dated 16.6.1986. The audit party conducted the audit of the accounts of Store of the accused-appellant for the period he remained posted as Store Keeper in the departmental Store, Kathua. The report EXPW-CL submitted by the audit party detected shortages of various items of food grains i.e. Sugar, Atta, Wheat and Rice etc. of an amount of Rs. 3,28,429.23 np. Based on the report of audit party, N.L. Bakshi, Director Food & Supplies, lodged a report with the Vigilance Organization as EXPW-CL and in consequence thereof, First Information Report was registered and the investigation proceeded. Another audit was conducted by the Vigilance Organization of the departmental Store, Kathua where the accused-appellant was posted as Store Keeper. PW Chaman Lal, Assistant Accounts Officer, Food and Supplies, Department also associated with the Vigilance Organization for verification of the departmental Store, Kathua. The second audit report EXPW-CL/7, detected some variations in the shortages of the accused-appellant as detected in the earlier audit conducted under the order of PW N.L. Bakshi, the then Director, Food and Supplies. The second audit party reduced the shortages of various articles of the food articles but still there were the shortages of articles of an amount of Rs. 2,60,050.77 np. After recording the statement of the witnesses, collecting the relevant record pertaining to the receipt and dispatch of the food grains to the accused-appellant through different challans found that the accused-appellant had failed to properly account for the shortages of various items of food articles, put up a charge against the accused-appellant in the Court of learned Special Judge, Anti-Corruption, Jammu. The trial Court, after the frame of the charge, recording the evidence and hearing the parties, held the accused-appellant guilty of the offences committed under Section 5(2) PCA and Section 409 RPC and sentenced him accordingly.

4. Mrs. Surinder Kour, learned counsel appearing for the accused- appellant, vehemently argued that the trial Court has not appreciated the evidence in its proper perspective. It is further stated that the challans pertaining to the dispatch of the food articles either do not bear appellant's acknowledgements or bore his signatures and, thus, could not be taken as the receipt of the articles stated therein, in determining the shortages. Thus, these challans cannot not be

considered to prove the receipt of such articles by the accused. That the shortages, in fact, should have been verified from the entries in the register pertaining to the food articles through various challans. The appellant's counsel further contended that mere non-explanation of the shortages is not sufficient to presume mis-appropriation of the articles entrusted to the accused-appellant which were kept in the godown and there is no evidence on record to prove the factum of mis-appropriation except the shortages found by the audit party on the basis of which the prosecution has proceeded. Even the sanction for prosecution obtained in the case from the competent authority is defective and in the absence of any legally sustainable evidence showing complicity of the accused/appellant in misappropriating the articles in the godown. he cannot be held guilty; the appeal deserves to be allowed and the conviction and sentence imposed upon the appellant set aside. Whereas, Mr. B.S. Slathia, learned AAG appearing for the respondent-State, submitted that the charge against the accused-appellant has been proved by overwhelming evidence both documentary and oral by the prosecution and the conviction and sentence recorded by the trial Court is on sound basis and, thus, provides no ground for interference in appeal.

5. I have heard the learned counsel appearing for the respective parties at length. A minute examination of facts and file has also been made. It may be pointed out at the first flush that the trial Court split the case against the accused-appellant into three charges of different periods. The first charge against the accused-appellant pertains to the period effective from April, 1984 to March, 1985. The second charge pertains to the period effective from April, 1985 to March, 1986. The third charge is related to the period of April, 1986 to May, 1986 during his tenure as Store Keeper of Food and Supplies departmental Store, Kathua. In all these charges, the allegations against the accused- appellant were that during the said periods he was entrusted food articles like Sugar, Atta, Rice and Wheat and he by adopting illegal means has mis-appropriated or having failed to explain the shortages detected during audit of the said articles of the value of Rs. 2,60,050.77 np against the accused-appellant. In order to prove these charges against the accused-appellant, the prosecution has relied upon reports of audit parties, one conducted by the order of the Director Food & Supplies, PW N.L. Bakshi prior to the registration of the case and second audit conducted during investigation by the

Vigilance Organization, at the time of taking over the charge from his predecessor and also when he handed over the charge to his successor, PW Arjun Singh, on transfer. The documents showing the total stock received by the accused-appellant during his tenure as Store Keeper and the shortages detected on verification by audit teams could not be accounted for by the accused. On the perusal of the evidence on record, it is found that the first audit of accounts of departmental Store, Kathua was directed to be conducted by the then Director, Food & Supplies in June, 1986. The audit party constituted under the supervision of PW Moti Lal. Baghati, Chief Accounts Officer, detected shortages after verification of the food articles viz. Sugar, Rice, Atta and Wheat valued at Rs. 3,28,429.23 np which became the basis of First Information Report lodged by N.L. Bakshi, the then Director Food and Supplies with the Vigilance Organization. During investigation, the Vigilance Organization went for another audit of the accounts maintained by the accused-appellant with the assistance of PW Chaman Lal, Accounts Officer, Food and Supplies Department and PW Suram Singh, Accountant-of the Vigilance Organization. On checking and verification of the accounts of the Food and Supplies departmental Store, Kathua, for the period the accused-appellant remain posted there, the second audit report, however, reduced the shortages to Rs. 2,60,050.77 np as against the shortages of an amount of Rs. 3,28,429.23 np as detected by the first audit party in its report EXPW-CL. The record further reveals that the charge of departmental Store of Food and Supplies Department at Kathua, was taken over by the accused-appellant from one Sita Ram, his predecessor in February, 1984. The accused-appellant remain posted there till May, 1986 as Store Keeper and when he handed over the charge to PW Arjun Singh, his successor, the charge report and the stock entries indicated therein were duly signed by PWs Sita Ram and Arjun Singh which have been proved in their respective evidence. The transaction of the different food grain items were made to the accused-appellant through various challans. The challans used to be prepared by PW Bansi Lal and their lists marked as EXPW-BL/1 to EXPW-BL/3 were submitted to the Superintendent of Vigilance during investigation, vide letter EXPW-BLA The acknowledgement of the items of the different food articles entered in the challans were duly signed by the accused-appellant and has been proved by PW Krishan Chand, Tehsil Supply Officer, in his evidence and is marked as EXPW-KC/752. These articles were dispatched to the accused-appellant from Trade Store, Jammu through various challans and their receipts stood acknowledged by the accused-appellant and entered in both the stock register and issue register maintained by the accused-appellant under his signatures which also stood proved by PW Krishan Chand in his evidence.

6. It was not in dispute that whatever the consignments the accused-appellant had received from the Trade Store, Jammu, were entered in the stock register as well as in the receipt register maintained by him. Food articles used to be dispatched to the store of the accused-appellant by PW Bansi Lal, Assistant Director, Trade and Stores, Jammu. According to this witness, statements relating to the dispatch of food articles to departmental Store, Kathua, were prepared by him from time to time. The statements marked as EXPW-BL/3 and EXPW-BL/4 bear the signatures of the accused-appellant. The statement relating to the dispatch of food grains contains the detail of the challan numbers, truck numbers, showing weight and number of bags of food articles sent to departmental Store, Kathua, where the accused-appellant was posted as Store Keeper during that period.

7. Similarly, PW Krishan Chand, Tehsil Supply Officer, Kathua, deposed that Atta and Sugar used to be supplied to the Store of the accused-appellant from the Trade and Stores, Jammu, and some times Rice and Wheat also used to be procured from JAKFED. The witness has deposed that he is acquainted with the signatures of the accused-appellant. He had attested 120 challans in respect of Sugar marked as EXPW-KC/1 to EXPW-KC/120 which stood acknowledged by the accused-appellant. The witness further stated to have attested all the challans pertaining to different items of food articles giving detail of number of the challans and the items in EXPW-KC/121 to EXPW-KC 698 bearing his signatures and had been acknowledged by the accused-appellant. The witness also stated that 53 challans in respect of Wheat EXPW-KC 699 to EXPW-KC 750 of JAKFED also bear the signatures of the accused-appellant. The witness also identified the signatures of the accused-appellant on 68 challans, vide which food grains were issued by the accused from his store to other stores which are marked as EXPW-KC 753 to EXPW-KS 821. According to him three more challans pertaining to Rice issued to Basholi Store also bears the signature of the accused-appellant and are

marked as EXPW-KC 822 to EXPW-KC 824. The monthly statements prepared by the accused-appellant which are 24 in number, marked as EXPW-KC 825 to EXPW-KC 849, are also under the signatures of the accused-appellant and are correct and identified by him. The witness also identified the hand writing of the accused-appellant and his signatures on the stock register. The opening balance of Sugar as per the entry dated 15.2.1984 of the stock register was 49-11-800 quintals and further entry dated 8.2.1984 at page 22 relating to Atta, the opening balance of the said article is 10-49-000 quintals. The witness also stated that the entry at page-46 of the stock register shows the balance of 9-15-000 quintals as opening balance of Rice by the accused-appellant under his signatures. Whereas the entry dated 7.3.1984 pertaining to Wheat shows nil balance. The stock register EXPW-KC/850 is also in the hand writing of the accused-appellant and under his signatures, so is in case of issue register EXPW-KC/851. The receipt register pertaining to Wheat, Atta, Rice from Nov. 1983 to March, 1986, EXPW-KC 852 which relates to Billower Store is not under the hand writing of the accused-appellant, but the receipt register relating to Atta from February, 1984 to May, 1986 EXPW-KC 853 is in the hand writing of the accused- appellant and similarly issue register EXPW-KC 854 in respect of Wheat items for the said period and the receipt and issue register EXPW-KC/855 in respect of Sugar for February, 1984 to May, 1986 are in the hand writing of the accused-appellant. All these entries in the aforesaid registers are identified by the witness to be under the hand writing and signatures of the accused-appellant. The food articles, according to the witness were used to be issued by the accused-appellant on the permits and challans issued by the Tehsil Supply Officer. The witness further stated and suggested that he had seen the accused writing and signing on the registers in the Store and also in the office. This witness, therefore, in his un-impeachable evidence has proved the signatures of the accused- appellant on the stock, receipt and issue registers maintained by the accused-appellant in his evidence that all these registers are in the hand writing of the accused and bear his signatures. The evidence provided by this witness with regard to the entries in the concerned registers to be under the hand writing and signature of the accused-appellant has not been challenged in the cross-examination by the accused-appellant nor in his own statement as his own witness in defence. The accused-appellant admitted that whatever consignments had been received were entered in the stock register as well as receipt register by him. Therefore, the contention raised by the accused-appellant that some of the challans either do not bear his signatures or his signatures have been forged on those challans, cannot be accepted as all those challans on which the accused has disputed his signatures have been fully found entered in the respective registers, the record of which has been seized during investigation and produced in the Court by the prosecution.

8. According to PW Sita Ram he had handed over the charge to the accused-appellant of sugar weighing 49 quintals 11 kg and 300 grams, Rice 9 quintals and 15 kgs and Atta 109 quintals and 49 kgs as per the entries of stock register at the pages 1,46 and 22 respectively. The charge report of handing over and taking over also bears his signatures, and the signature of the accused-appellant as well as the signatures of Mr. A.R. Khan, the then Assistant Director, Food & Supplies. The statement of the witness has not been challenged by the defence in the cross examination with regard to the quantity of various items of food articles handed over at the time of taking over the charge by the accused-appellant. Whereas, the PW Suram Chand, Accounts Officer, Vigilance Organization, Jammu after the examination of the record of Food & Supplies, Store, Kathua, during audit had given a clear description in his report EXPW-SS, showing the different items of food articles received by the accused-appellant during his tenure as Store Keeper in the departmental Store, Kathua, and the shortages found at the time of audit after verifying the closing balance from the record and the items handed over by the accused- appellant to his successor PW Arjun Singh at the time of his transfer. In the detailed statement prepared by PW Suram Singh, the position revealed from the stock received, the closing balance and the shortages found at the time of verification is given as under:-

'Sugar:-

The above mentioned store keeper had received sugar 23763.82.410 Qtls detailed statements attached plus 49-11-800 Qtls as O.B. as on 1983-84 total comes to 23812.94.210 Qtls out of which 23532-51-500 23532-51-500 qtls have been shown issued as per record during the period. The closing balance should have been 210-42-710 whereas the storekeeper had handed over 47-33-500 qtls ground balance to his predecessor Shri Arjan Singh so the net shortage comes to 273-09-210 Qtls the cost of which comes to Rs. 113182.53 @ Rs. 485/57 per qtls. Fixed by the Food Supply Deptt.

ATTA:-

The concerned store-keeper has received Atta 30033.90-000 qtls as per statements attached plus 10-49-000 qtls as O.B, thus total quantity comes to 30044-39-000 qtls out of which 29476-95-00 qtls of Atta have been shown issued as per record during the period. The closing balance should have been 567-44-000 qtls but the storekeeper has handed over 149-50-000 qtls and causing shortage of 417-94-000 qtls. The cost of the same comes to Rs. 90095.32 @ 215/57 per qtls fixed by the Food Supply Deptt.

RICE IR 108

The concerned store-keeper received the total quantity of Rice IR 108 (653-47-500 without O.B., as per the statement attached out of which only 653-00-000 qtls have been shown issued as per record during the period. The closing balance should have been 0-47-500 qtls. The store-keeper handed over nil balance hence the not shortage comes to 0-47-500 qtls, the cost of which comes to Rs. 119.02 @ 250/57 per qtls fixed by the Food Supply Department.

RICE PR 106

The concerned store keeper received the total quantity of Rice 8659-70-000 qtls as per statements attached plus 09-15-000 as O.B, thus total quantity comes to 8668.85-000 qtls. Out of which 7597-25-000 qtls have been shown issued as per record during the period. The closing balance should have been 1071-60-000 qtls. but the storekeeper has handed over 866-62-000 qtls as ground balance causing shortage of 204-98-000 qtls The cost of the same come to Rs. 56076.37 @ 273/57 per qtls. fixed by the Food Supply Department.

Rattna Rice :-

The concerned store-keeper has received Rattna rice 722-62-000 qtls as per statement attached with nil opening balance. Out of this 720-73-000 qtls has been shown issued as per the record during the period. The closing balance should have been 1-89-000 qtls the same is the net shortage as he has not handed over the same as per record made available. The cost of shortage comes to Rs. 577.53 @ 305/57 per qtls fixed by the Food and Supplies Deptt.'

9. It is farther extracted from the statement of PW Krishan Chand Sharma, Tehsil Supply Officer, Kathua, that the stock of various items of food articles received by store keeper, accused (appellant) of the departmental Store, Kathua through challans from Trade and Stores Jammu used to be acknowledged by the accused-appellant and entries made in the register under his hand writing and signatures. The defence taken by the accused-appellant in his statement, however, is of no avail to him because all those challans about which he has stated that these do not bear his signatures or signatures are found forged on those challans, are proved to have been entered in the concerned registers by the accused- appellant under his hand writing bearing his signatures and proved in the testimony of PW Krishan Chand Sharma, Tehsil Supply Officer. In fact, PW Krishan Chand Sharma had identified the signatures of the accused-appellant in challans and the stock register of Food & Supplies departmental Store at Kathua, which were under the charge of the accused. This clearly shows that the challans having been entered in the stock register by the accused, himself, the entrustment of the various items of food articles to the accused-appellant, a public servant by the Food & Supplies Department stand sufficiently and satisfactorily established.

10. One of the essential elements of the offence of breach of trust is that the accused must have been entrusted with property. In order to bring the matter within the purview of S. 409 RPC, there must not only be the initial entrustment of the goods, but there should be a subsequent dishonest conversion to its use by the accused person. In other words, in the absence of entrustment of property, this section cannot be attracted. In this case there is sufficient and satisfactory evidence on record to show that issue and receipt registers were maintained by the accused-appellant and physical verification of the stock was made by the audit party which detected the shortages, thus, entrustment and mis-appropriation are

proved. The record produced relating to the relevant period, coupled with the report of the audit party, the detailed statement of receipt of the stock received and acknowledged by the accused-appellant, the closing balance and the shortages detected sufficiently proves the entrustment of the food articles to the accused-appellant during his posting as Store Keeper in the Food & Supplies departmental Store, Kathua. When the prosecution has succeeded in proving the entrustment of the various items of food articles to the accused-appellant, it is for the accused to account for it. There must be cogent explanation given by the accused-appellant with regard to the shortages found in his stock at the time of verification by the audit party. In the present case the explanation for the shortages given by the accused-appellant as has been discussed above is neither found sufficient, satisfactory nor believable.

11. The trial Court after going through the relevant stock, issue, and receipt registers maintained by the accused-appellant found that the shortages have been caused either by wrong totaling or by making incorrect carry forward or by showing less receipt and excess issue in the concerned registers for the respective periods reflected in the transaction spilt into three separate charges in the case. Mrs. Surinder Kour, learned counsel appearing for the accused-appellant, however, argued that the accused-appellant was entitled to receive the rebate on account of loss caused by drayage @ 3 kg per quintal as per the rules framed by the Food & Supplies Department. She further contended that, if this rebate is allowed, its total weight would cover up the shortages in all items of the food articles and no offence is disclosed against the accused-appellant. In this context, it may be pointed out that the rebate can be allowed if the loss is detected in respect of the goods lying in the Store on physical verification in that event only it can be said that it is because of drayage, but where the stock has been directly misappropriated without having reached the store, allowing the rebate does not arise. Apart from that, this rebate is permissible on the actual goods available in the stock. This plea is also not available to the accused-appellant in support of his defence and, therefore, is devoid of any merit.

12. It is certainly for the prosecution to place material before the Court from which such inference can be drawn. The question of intention is not a matter of direct

proof. It is a matter of inference from the facts and circumstances of each case. The record must show that there was dishonest misappropriation or conversion of property entrusted to the accused-appellant.

13. It is well settled that the failure to account for the property or money or giving false account for these may be strong legal evidence of dishonest misappropriation. Where an employee, as in the instant case, having taken over the charge of the Store room and thereafter received various supplies from time to time through proper challans and also acknowledged receipts of the consignments by making entries into the relevant record, but on verification by audit party found shortages of the value of huge amount, he is deemed to have mis-appropriated the property dishonestly.

14. The ingredients of dishonest misappropriation are sufficiently and satisfactorily proved against the accused- appellant. The prosecution has proved both entrustment and dis-honest misappropriation of government money/property by a public servant by leading cogent and reliable evidence both by oral and documentary. The record produced and the report submitted by the audit party after the verification of Food and Supplies departmental Store, Kathua where the accused was store keeper has proved the charge of dis-honest misappropriation of the stock entrusted to him and the charge under Section 409 read with Section 5(1) (c) of the PCA has been proved against the accused-appellant by convincing, credible, cogent and trustworthy evidence. The entries of the stock, receipt and dispatch registers in the hand writing of the accused and bearing his signatures stand proved in the testimony of PW Krishan Chand Sharma, Tehsil Supply Officer in whose presence the accused put his signatures in the challans and made entries in the concerned registers. The audit report alongwith the statement in detail of the receipt of the stock during the tenure of the accused as store keeper, the balance of the stock found in the registers detected, the shortage worked out at Rs. 2,60.050.77 np which remain un-explained by the accused-appellant and are proved beyond hilt that the accused-appellant has mis-appropriated dishonestly, as a government servant, the stock in respect of which shortages have been found and he has committed a criminal breach of trust.

15. It is not the duty of the prosecution to prove precise mode of conversion or misappropriation of money /property entrusted to the accused where the accused is unable to account for the money/property or renders an explanation for his failure to account which is found untrue, an inference of misappropriation with dishonest intention may be drawn (see 1981 All Cri R 31 (39).

16. Another limb of argument advanced by Mrs. S. Kour, learned counsel for the accused-appellant is that the first audit report conducted by the order of PW N.L. Bakshi, the then Director Food & Supplies prior to the registration of a case detected shortages in respect of various items of food articles after the verification of the record viz. stock, receipt, and issue registers maintained by the accused-appellant. Whereas, second audit conducted by both the officials of Food & Supplies Department and Vigilance Organization after the registration of the case on the report of N.L. Bakshi, reduced the shortages to Rs. 2,60,050.77 np. Although there is variation in misappropriation, according to the charge sheet, which gives rise to serious infirmity to the prosecution case and renders it redolent with doubts and suspicion, but the variations in two audit reports, one prior to the lodging of the First Information Report and second after the registration of the case, in my opinion, does not leave any infirmity so as to make the whole prosecution case un-doubtful or un-reliable on the ground of discrepancy.

17. It was next contended by Mrs Surinder Kour that the sanction to the prosecution of the accused has been granted by the competent authority without application of mind as no relevant material was placed before the sanctioning authority. It is pertinent to point out that for a sanction to be valid, it must be established that the sanction was given in respect of the facts constituting the offence with which the accused is proposed to be charged. Though it is desirable that the facts should be referred to in the sanction itself, non the less if they do not appear on the face of it, the prosecution must establish aliunde by evidence that those facts were placed before the sanctioning authority. If the sanction is invalid, the conviction undoubtedly cannot stand.

18. While examining this question, what the court has to see is whether or not the sanctioning authority at the time of giving sanction was aware of the facts

constituting the offence and applied its mind for the same. The grant of sanction is not an ideal formality or an acrimonious exercise but a solemn and sacrosanct act which affords protection to government servants against frivolous prosecutions and must, therefore, be strictly complied with before any prosecution can be launched against the public servant concerned.

19. Adverting 4to the facts of this case and on going through the order of sanction given by the competent authority for the prosecution of the accused-appellant, I do not find any substance and legal force in the submission of Mrs. S. Kour, learned counsel appearing for the accused-appellant. The government sanction on record itself shows that sanctioning authority was fully aware of the facts evidenced from the record placed before it. In any case, I do not think that there is any validity in the submission that the sanction given by the competent authority does not cover the trial of the charge under Section 5(1) (c) of the PCA and is punishable under Section 5(2) of the said Act. On the facts contained in the order of sanction, the sanctioning authority after applying its mind accorded the sanction for the prosecution of the offence punishable under Section 5(2) of the PCA.

19. No other point has been urged.

20. As an upshot of the aforesaid discussion, the inevitable conclusion reached is that the trial court has weighed the evidence produced by the prosecution, fairly appreciated the character of witnesses correctly, perused the record minutely and reached the result rightly. I am further of the opinion that the trial court has rightly rejected the plea of the defence raised by the accused- appellant because on appearing in the witness box as his own witness, it was found untrue and untrustworthy and did not inspire any confidence in the court. I am, therefore, in agreement with the findings of the trial Court and confirm the conviction and the sentence awarded.

21. This appeal, therefore, possessing no merit is dismissed, accordingly. The conviction recorded and the sentence awarded by the trial Court is upheld. The accused-appellant is on bail, he shall surrender to his bail bonds and shall be taken into custody to serve the sentence awarded by the trial court.