

IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD

THE HON'BLE MR. JUSTICE K. SURENDER

**CRL.A. NO. 729 OF 2007 & CRL.A. NO. 737 OF 2007
& CRL.A. NO. 789 OF 2007 & CRL.A. NO. 793 OF
2007 & CRL.A. NO. 828 OF 2007 & CRL.A. NO. 850
OF 2007**

16.04.2024

C.Bala Malleshwar Rao & Ors.

... Petitioners

v.

The State of Telangana ACB, City Range, rep. by Special Public Prosecutor & Ors.

... Respondents

Indian Penal Code, 1860 – Criminal Conspiracy and Misappropriation of Funds – Departmental inquiry alone not conclusive for criminal misconduct or misappropriation – Inflated bills, unauthorized cheques, questionable records at University press – Burden of establishing entrustment and personal involvement beyond reasonable doubt not met – Absence of crucial bank testimony; no direct evidence of personal gain for most accused – Suspicion cannot replace proof in criminal proceedings – Convictions under §§. 409, 477-A, 120-B set aside except where appeal abated – Higher standard of proof reaffirmed.

Prevention of Corruption Act, 1988 – Offences under §§. 13(1)(c), 13(1)(d) (i)&(ii) r/w 13(2) of PC Act – Criminal misconduct, alleged misappropriation through inflated bills, unauthorized cheques, and questionable overtime allowances – Departmental inquiry and administrative findings alone not conclusive – Prosecution must prove entrustment, direct involvement, and personal gain beyond reasonable doubt – Absence of bank testimony weakened linkage to accused – Insufficient proof for most accused; convictions set aside (one appeal abated) – Higher burden of proof in criminal proceedings emphasized.

Indian Evidence Act, Section 106 – §. 106 – Burden of Proof – Mere departmental findings insufficient to shift burden to accused – Prosecution must establish entrustment, misappropriation, and personal involvement beyond administrative inquiries – Absence of direct or bank testimony to prove wrongful withdrawals – Suspicion cannot replace concrete proof – Convictions set aside for most accused, with one appeal abated.

Indian Evidence Act, Section 65 – Secondary Evidence – Voluminous Documents – §. 65 permits secondary evidence of general result when originals are too numerous for convenient examination – Departmental inquiries alone insufficient to establish criminal culpability – Prosecution must prove direct nexus between alleged misappropriation and accused – Absence of direct documentary proof or bank testimony fails to shift

burden of proof — Skilled person’s summary admissible, but must be corroborated by concrete evidence — Convictions set aside for lack of entrustment and personal involvement except where appeal was abated.

Prevention of Corruption Act Section 13(c) — Offence of Misappropriation under §. 13(c) — Akin to §. 409 IPC — Sine qua non: Proof of Entrustment — Prosecution’s failure to produce bank witnesses linking appellants to actual withdrawals — Departmental inquiries alone held insufficient to establish criminal misconduct — Convictions set aside except for appeal abated.

IPC Section 409 — Criminal breach of trust — Requirement of entrustment under §. 409 IPC — Self-cheques drawn and signed by A1 alone — No direct evidence from Bank to prove co-accused withdrew funds or personally misappropriated amounts — Departmental findings alone insufficient to establish criminal culpability — Burden of proof in criminal proceedings not met — Convictions set aside except for abated appeal.

FACTS. The Registrar of Osmania University lodged a complaint with the Anti-Corruption Bureau alleging that employees of the University’s printing press misappropriated funds by inflating bills for materials, issuing unauthorized cheques, and paying overtime allowances without proper justification. An FIR was filed in 1994 following a departmental investigation. Multiple accused were charged and some died during the trial, causing partial abatement of proceedings. The Special Judge for SPE & ACB Cases convicted certain accused for criminal misconduct and misappropriation. The convictions were challenged on appeal, where the sufficiency of documentary evidence, departmental inquiries, and direct proof of each accused’s role became central issues. Ultimately, the appellate court examined whether the prosecution had established entrustment and personal involvement beyond reasonable doubt.

ISSUES OF LAW.

Whether funds were misappropriated through unauthorized allowances and inflated procurements; whether departmental inquiries alone sufficed to prove criminal misconduct; whether burden of proof could shift to the accused under Indian Evidence Act provisions; whether each accused bore direct responsibility or if only the primary officer in charge should have been held liable; whether proof of entrustment and misappropriation was established beyond reasonable doubt; whether incomplete records and missing documents required acquittal.

SUMMARY. Multiple appeals arose from allegations of financial misappropriation at Osmania University’s printing press, where A1 and others allegedly overstated overtime allowances, inflated bills for printing materials, and maintained questionable records. Departmental inquiries found irregularities and led to convictions under corruption and penal statutes. On appeal, the court determined that the prosecution had not conclusively proven direct involvement or entrustment for most accused, pointing to a lack of bank testimony and insufficient proof linking them to claimed withdrawals. The court set aside the convictions, except for one appeal dismissed as abated, and concluded that criminal culpability could not rest solely on administrative findings without firm evidence of personal wrongdoing.

HELD. The appellate court determined that the prosecution did not prove entrustment or direct involvement for most accused and set aside their convictions, citing insufficient evidence and the need for a clear nexus between withdrawals and personal gain. The single appeal involving a deceased accused was dismissed as abated. The court's ruling underscored the higher burden of proof required in criminal proceedings, particularly where documentation stems from administrative inquiries.

FINAL STATUS. Appeals allowed for the accused except one appeal dismissed as abated.

CASES REFERRED

Anthony D'Souza vs State of Karnataka [(2003) 1 SCC 259]
Balvir Singh vs State of Uttarakhand [2023 SCC OnLine SC 1261]
Haricharan vs State of Rajasthan [AIR 1998 SC 244]
R.Sai Bharathi vs J.Jayalalitha [AIR 2004 SC 892]
State of Uttar Pradesh vs Sukhbasi [AIR 1985 SC 1224]

COUNSELS

Sri A.Dattanand (for Appellants)
Sri S.Someshwar Rao (for Appellants)
Sri L.N.Bhadri Raju (for Appellants)
Sri C.Sharan Reddy (for Appellants)
Sri Sridhar Chikyala (Special Public Prosecutor for ACB)

Judgment Pronounced on 16.04.2024