

KABK010022162024



IN THE COURT OF THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, BAGALKOT, ITINERARY COURT,
HUNGUND

Present: Sri. G. A. Mulimani M.A., LL.M.,
District and Sessions Judge.

Dated this the 13th day of March 2026

CRIMINAL APPEAL No.66/2024

Appellant/Accused:

Shankar S/o Piru Chavan,
Age: 59 years, Occ: Manager in Food & Civil
Supplies, Athani,
R/o APMC Yard, Athani, Tq: Athani,
Dist: Belagavi.

(By Sri.S.C.Hiremath, Advocate)

Vs.

Respondent/Complainant:

The State of Karnataka
Through Ilakal Police Station.

(By Ld. Public Prosecutor, Bagalkot)

JUDGMENT

This appeal is filed under section 374 of Cr.P.C. by the appellant, who is accused in C.C.No.279/2009 on the file of Ld. Additional Civil Judge and JMFC, Hungund, Sitting Itinerary Court at Ilakal against the Judgment of Conviction and Order of Sentence dated 03.09.2024.

2. Brief facts of the case of Prosecution/respondent before the Trial Court were as under:

3. For the sake of convenience I refer the parties as per their rank before the trial court.

4. The C.P.I., Hungund Circle, Hungund has submitted charge sheet against accused for the offence punishable under section 406 of Indian Penal Code.

5. The brief facts of case of prosecution is that, on 23.09.2008 at 10-00 AM accused was working as Manager of warehouse of Karnataka Food and Civil Supplies Corporation Ltd., situated at Ilkal Complex, Ilkal Town, for

distribution of fair price shop to nearby villages within the limits of Ilkal Town P.S., as per credible information received from his higher authorities, complainant conducted physical verification of the stock register at Ilkal Town complex Karnataka, Food and Civil Supplies Corporation Ltd., situated at Ilkal Town. As per the stock register of essential commodities there was shortage of 50 quintals and 97 KG of rice, 19 quintal and 4 KG of sugar and 26 quintal and 96 KG of salt and accused failed to show proper account for the same and failed to produce display of price and stock and relevant stock register account and have contravened the provisions of Karnataka essential commodities (Public distribution system) control order 1992 and Sec.3 and 7 of Essential Commodities Act 1955. The accused without furnishing the details of stock register of essential commodities to the Karnataka Food and Civil Supplies Corporation Ltd., misappropriated the said essential commodities such as rice, sugar and salt and used the same for his personal use and committed

criminal breach of trust. Thus, the accused person has committed the offence punishable U/s.406 of IPC

6. Accordingly, C.W.1 had lodged the complaint in Ilakal Police Station. On the basis of said complaint, a case has been registered in Crime No.186/2008 for the offence punishable under Section 406 of I.P.C. The Investigating Officer has visited the place of occurrence, conducted the mahazar, seized the material objects, recorded the statement of witnesses and after completion of entire investigation submitted charge sheet against accused for the above said offence.

7. After filing of charge sheet, trial court took cognizance of the offence and enlarged accused on regular bail. Section 207 of Cr.P.C. was complied with. Thereafter the trial court recorded the Plea, read over and explained to the accused in the language known to him, wherein the accused has pleaded not guilty and claimed to be tried.

8. To bring home the guilt of the accused person, the prosecution got examined 5 witnesses as P.W.1 to 5 and got marked 11 documents as Ex.P.1 to Ex.P.11 and closed its side. Afterwards the Trial Court enquired the accused and recorded his statements as provided under Section 313(1)(b) of Cr.P.C., the accused has denied the incriminating evidence against him and did not claim his defence evidence and matter was posted for arguments.

9. The Ld. Trial Judge heard the arguments of both the sides.

10. The Ld. Trial Judge framed following Points for determination:

1. Whether prosecution proves beyond all reasonable doubt that on 23.09.2008 at 10-00 AM accused being public servant was entrusted as Manager of warehouse of Karnataka Food and Civil Supplies Corporation Ltd., situated at Ilkal Complex, Ilkal Town, for distribution of fair price shop to nearby villages that lies within the limits of Ilkal Town P.S., When complainant conducted physical verification of the

stock register at Ilkal Town complex Karnataka Food and Civil Supplies Corporation Ltd., situated at Complex Ilkal Town, as per the stock register of essential commodities there was shortage of 50 quintals, 97 KG of rice, 1 quintal 4 KG of sugar and 26 quintal 96 KG of salt and accused failed to account for the same and failed to produce display of price and stocks and furnish the details of stock register and misappropriated the said essential commodities such as rice, sugar and salt and used the same for his personal use and committed criminal breach of trust and thereby have committed an offence punishable U/s.409 of IPC?

2. What Order or Sentence?

11. Ld. Trial Judge after appreciating the materials available on record, answered the said Point No.1 in the Affirmative by the Judgment dated 03.09.2024, convicted the accused and sentenced the accused for the commission of offence punishable under Section 409 of I.P.C. to undergo SI for a period 03 years and also to pay fine amount of Rs.10,000/- and in default of payment of fine amount he shall undergo SI for a period of 02 Months.

12. The said Judgment is challenged in the present appeal on the **Grounds** mentioned in the Appeal Memo, which are as under:

1. That the judgment and order of conviction passed by the Trial Court is not proper one. Trial court had failed to appreciate the material evidence, not properly appreciated the evidence of prosecution witness and it had wrongly convicted the appellant/accused.

2. The basic lacuna in the prosecution case is that, the complainant had not produced any documents to show that, he was authorized to file the alleged complaint. When such a defect is found in prosecution case, hence conviction order is not sustainable. The basic ingredient of Sec 405 of IPC is also not proved by the prosecution evidence that, the person had dishonestly misappropriated or converted that property to his own use. If evidence of PW-1 & 4 were perused they never depose that, the difference in the quantity of goods were used by the appellant/accused for his benefit and he had misappropriated or converted the goods for his own use.

3. Further contended that, if evidence of PW-1 perused he deposed that, he inspected all materials within 3 hours whereas PW-4 deposed that, they inspected warehouse for

2 days with help of 7-8 labourers. If evidence of PW-1 and PW-4 were perused they had not deposed as accused had misappropriated the goods for his benefit. PW-1 and PW-4 admitted that, warehouse was very small due to heavy rain sugar and salt were melted some of the goods were kept for drying. PW-1 and PW-4 had admitted that accused/appellant had made complaint about damage to warehouse and he had much several request of repair of warehouse. That PW-1 and PW-4 had clearly admitted that, goods kept for drying were not considered at the time of panchanama. PW-5 being the investigating officer had deposed in cross-examination that, he had filed charge sheet only on the basis of complaint filed by the complainant.

4. Further contended that, panchanama does not bear the date on which panchanama was conducted. PW-5 had not visited warehouse, he had not conducted any investigation, only at the say of PW-1 and PW-4 he had filed charge sheet. The prosecution had not proved from whose possession Ex.P.7 was seized. There are so many contradictions in the evidence of PW.1, PW.4 and PW.5 which were overlooked by the trial court. PW-2 and PW-3 panchas had not supported the case of prosecution, which demolishes the case of prosecution. The trial court had not

considered the material admissions given by prosecution witnesses in respect of damage to goods due to heavy rain. The appeal filed today is in time. The accused/appellant is ready to deposit fine amount. Accordingly prayed to set aside the impugned judgment and order of conviction by acquitting the appellant in the interest of justice and equity.

13. After registration of this appeal, Hon'ble Principal District Sessions Court, Bagalkot has made over this appeal to this court for disposal in accordance with law vide order dated 20.09.2024.

14. Notice of Appeal was sent to the respondent and the respondent has appeared through Ld. Public Prosecutor, Bagalkot.

15. The Sentence passed by the Trial Court is suspended as per the order passed by this court on 04.10.2024.

16. The Trial Court's records were called for and the same were received.

17. In spite of availing sufficient opportunity the Ld. Counsel for appellant and Ld. Public Prosecutor for respondent have not argued the matter and hence the arguments of appellant and respondent/State is taken as heard.

18. On the basis of the available materials, the following Points emerge for my determination:

1. Whether the Trial Judge erred in holding that, the accused has committed an offence punishable under Section 409 of Indian Penal Code and whether the Sentences imposed by the Trial Court are disproportionate? Interference in the said findings is required?
2. What Order?

19. My findings on the above points are as under:

Point No.1: In the Negative

Point No.2: As per the final order for the following:

REASONS

20. **Point No.1**:- The case of both the parties is stated in the above Paras and no need to repeat it.

21. It is the specific case of appellant that, the judgment and order of conviction passed by the Trial Court is not proper one. Trial court had failed to appreciate the material evidence, not properly appreciated the evidence of prosecution witness and it had wrongly convicted the appellant/accused. The basic lacuna in the prosecution case is that, the complainant had not produced any documents to show that, he was authorized to file the alleged complaint. When such a defect is found in prosecution case conviction order is not sustainable. The basic ingredient of sec 405 of IPC is also not proved by the prosecution evidence that the person had dishonestly misappropriated or converted that property to his own use. If evidence of PW-1 & 4 were perused they never depose that the difference in the quantity of goods were used by

the appellant/accused for his benefit and he had misappropriated or converted the goods for his own use.

22. Further contended that, if evidence of PW-1 perused he deposed that, he inspected all materials within 3 hours whereas PW-4 deposed that they inspected warehouse for 2 days with help of 7-8 labourers. If evidence of PW-1 and PW-4 were perused they had not deposed as accused had misappropriated the goods for his benefit. PW-1 and PW-4 admitted that warehouse was very small, due to heavy rain sugar and salt were melted some of the goods were kept for drying. PW-1 and PW-4 had admitted that accused/appellant had made complaint about damage to warehouse and he had made several request of repair of warehouse. That PW-1 and PW-4 had clearly admitted that goods kept for drying were not considered at the time of panchanama. PW-5 being the investigating officer had deposed in his cross-examination that, he had filed charge sheet only on the basis of complaint filed by the complainant.

23. Further contended that, panchanama does not bear the date on which panchanama was conducted. PW-5 had not visited warehouse. He had not conducted any investigation, only at the say of PW-1 and PW-4 he had filed charge sheet. The prosecution had not proved from whose possession Ex.P.7 was seized. There are so many contradictions in the evidence of PW.1, PW.4 and PW.5 which were overlooked by the trial court. PW-2 and PW-3 panchas had not supported the case of prosecution which demolishes the case of prosecution. The trial court had not considered the material admissions given by prosecution witnesses in respect of damage to goods due to heavy rain.

24. Admittedly, Investigating Officer has filed the charge sheet against the accused for the offence punishable under section 409 of I.P.C. The Trial Court was convicted the accused by considering the evidence of P.W.1 to 5 and exhibited documents at Ex.P.1 to P.11.

25. I have perused the evidence of prosecution witnesses. The identity of the accused is not disputed. The only dispute/defence is that, the Trial Court has convicted the accused only on the credibility of interested witnesses.

26. In order to establish this aspect, the prosecution has examined the first informant as P.W.1 Sharanappa Piddappa Sannakki. In the evidence has deposed to the fact that, on 23.09.2008 at about 10.00 a.m. by virtue of the direction of his higher officer, he had been to conduct inspection of KFC, Ilkal warehouse. At that time, one Shankar Chavan was working as Manager. Further has deposed that, he had physically inspected rice, wheat, dal, salt and pom oil. As per the stock register in the warehouse. There should be 2120.58 quintals of rice. However, there was a shortage of 50.97 quintals of rice. Further has deposed that, the stock in respect of wheat, pom oil and dal are found correct. The sugar should be 51.54 quintals as per the stock register, however, it was only 50.50 quintals. Thereby shortage of sugar was 1.04

quintal. Further, the salt should be 107.35 quintals as per the stock register, but during the inspection, it was only 80.50 quintals i.e. shortage of 26.85 quintals. Further has deposed that, normally whenever there was a distribution of essential commodities through the fair price shop, same should be maintained by the Manager of warehouse properly. Further, it is his duty to monitor that, the commodities of fair price shop in a better condition. In this case, the Manager has not monitor the commodities properly, as such has violated the conditions.

27. Further has deposed that, the accused had not produced the documents like price of the commodity, stock slabs, verification affidavit issued by the Deputy Commission regarding weighing machine at the time of conducting the inspection. Therefore, he has seized the said material objects in presence of two panchas and one Lingappa. Thereafter has lodged the complaint and handed over the said material objects before the police. Thereafter has recorded statements of two panchas and one Lingappa.

Further has seized the said warehouse and submitted the report. Further has deposed that, he has taken the samples of rice, sugar and salt. At then time of his inspection, there was a shortage of stock as per the stock register, he do not know the reasons for shortage of stock. The complaint is marked at Ex.P.1 and his signature is marked at Ex.P.1(a). Panchanama is marked at Ex.P.2 and his signature is marked at Ex.P.2(a). Statement of accused is marked at Ex.P.3, accused signature is marked at Ex.P.3(a) and his signature is marked at Ex.P.3(b). The statement of accused regarding the stock register and available commodities, which is marked at Ex.P.4, his and accused signatures are marked at Ex.P.4(a) and (b). The warehouse seizure report is marked at Ex.P.5, his signature is marked at Ex.P.5(a). Two pages of Ledger of KFC warehouse dated 23.09.2008 is marked at Ex.P.6, his and accused signatures are marked at Ex.P.6(a) and (b). The stock register book is marked at Ex.P.7.

28. P.W.2 Ningappa Balappa Balabatti has deposed in the evidence that, he do not know the C.W.1 and accused. He do not know the nature of work of accused. He do not know the present case. Further has stated that, C.W.1 never called him anywhere. No Panchanama was conducted in his presence at warehouse and not verified the commodities and seized any material object. He has identified his signature on Ex.P.2, which is marked at Ex.P.2(b). He do not know the contents of Ex.P.2 and where it was prepared. As per the say of police has signed on Ex.P.2, where he was doing coolie work. He do not know about C.W.3 and 4. At this stage this witness turned hostile. During the Cross-Examination conducted by the Ld. APP nothing has been elicited truth from the mouth of P.W.2.

29. P.W.3 Sharanappa Baramappa Sebannavar has deposed in the evidence that, he do not know the C.W.1 and accused. He do not know the nature of work of accused. He do not know the present case. Further has

stated that, C.W.1 never called him anywhere. No Panchanama was conducted in his presence at warehouse and not verified the commodities and seized any material object. He has identified his signature on Ex.P.2, which is marked at Ex.P.2(b). He do not know the contents of Ex.P.2 and where it was prepared. As per the say of police has signed on Ex.P.2, where he was doing coolie work. He do not know about C.W.2 and 4. At this stage this witness turned hostile. During the Cross-Examination conducted by the Ld. APP nothing has been elicited truth from the mouth of P.W.3.

30. P.W.4 Anilkumar Hanamantaray Davalagi has deposed in the evidence that, in the year 2008 he was working as Food Shirstedar at Hungund Tahasildar Office, at that time, C.W.1 was working as Food Inspector. In the year 2008 the entire fair price shops of Hungund Taluka are comes under his supervision. On 23.09.2008 has received credible information regarding difference or shortage of stock of essential commodities sold at

wholesale warehouse of Karnataka Food and Civil Supplies Corporation Limited at Ilkal town. Immediately, he and C.W.1 went to the said warehouse on the same day. The accused by name Shankar Chavan was the Manager of the said warehouse. On inspection, they found that, the shortage of rice of 50 quintals and 90 K.G., shortage of sugar of 01 quintal 04 K.G. and shortage of salt of 26 quintals and 85 K.G. as per stock book. The accused has not produced any documents to show the shortage of weight of the said essential commodities as per the stock book. Hence, has conducted spot Panchanama in respect of physical stock in presence of C.W.2 and 3 Panchas. The said Panchanama is already marked at Ex.P.2, his signature is marked at Ex.P.2(b). The accused made statement before him regarding the said difference of stock and actual physical essential commodities. The said statement is already marked at Ex.P.3 and his signature is marked at Ex.P.3(c).

31. Further has denied that, thereafter he returned to his office and submitted the report along with Panchanama before the C.W.1. On the basis of the said report and Panchanama, C.W.1 has filed complaint. He has made statement before the Investigating Officer about the incident. Further has stated that, the accused being the responsible officer to maintain the essential commodities supplied by the Government as per the stock book, however has found that, the accused has failed to discharge his duty during his inspection.

32. P.W.5 Lingaraj Virupanna has deposed in the evidence that, on 23.09.2008 at about 06.00 p.m., when he was in Ilkal Police Station as PSI, at that time C.W.1 came and filed the written complaint along with Panchanama and report. On the basis of the said complaint, has registered the case in his PS Crime No.186/2008 and sent the F.I.R. to the court. Complaint is already marked at Ex.P.1, his signature is marked at Ex.P.1(b). F.I.R. is marked at Ex.P.8 and his signature is marked at Ex.P.8(a).

The said Panchanama and statement are already marked at Ex.P.2 and Ex.P.3 and the stock report is marked at Ex.P.4 and report of C.W.1 is marked at Ex.P.5, his signature is marked at Ex.P.5(b). Further has recorded the statement of C.W.5. On 20.10.2008 accused appeared before him after obtaining anticipatory bail from the District Court. Hence, has released him as per the arrest rules. On 02.01.2009 accused has produced the attested copies of stock supplied in the month of September 2008 along with report of C.W.1, which is marked at Ex.P.9 and his signature is marked at Ex.P.(a) and the receipts are marked at Ex.P.6. On 07.01.2009 C.W.1 came to the Police Station and produced supply of essential commodities for the month of September 2008 along with letter, which is marked at Ex.P.10, his signature is marked at Ex.P.10(a). 26 attested copy of FCI Receipts are marked at Ex.P.11. After completion of investigation has submitted charge sheet against the accused.

33. During the Cross-Examination of P.W.1 has stated that, on 23.09.2008 at about 10.00 a.m., he and C.W.5 have visited the warehouse situated at Ilkal town complex of Karnataka Food and Civil Supplies Corporation. Further has stated that, they have conducted physical verification of the warehouse as per the direction of his higher officers. On inspection have found rice bags of 70 K.G., Sugar bags of 1 quintal and salt bags of 1 quintal. Further the said stock is not tallied as per the physical commodities and stock register. Hence, after weighing the stock of essential commodities sold at warehouse, has filed the complaint.

34. Further has stated that, after verification of warehouse he has seized Ex.P.7 from the custody of accused. During the year 2009, it was heavy rain in the month of September, due to which there was leakage in the warehouse, as such some of the essential commodities were damaged and deteriorated. Therefore, some of the essential commodities kept open for its dry in the

warehouse. Further has denied that, accused has not committed any alleged offence and has not shown his negligence while maintaining the essential commodities. However has admitted that, Ex.P.2 Panchanama was conducted in his presence and Ex.P.3 i.e. is his statement. Further has denied that, the C.W.1 is not conducted the inspection in the said warehouse and not conducted any Panchanama and C.W.1 has preferred false complaint.

35. During the Cross-Examination P.W.4 has stated that, the Deputy Director of Karnataka Food and Civil Supplies Corporation, is his higher authority. Further has stated that, there was a shortage of 50 quintals of rice during the month of September, except the month of September all other months are correct. Further has stated that, as per the direction of his higher authorities, he and C.W.1 have conducted the raid at the spot. Further has stated that, they have weighed all the stock of essential commodities available in the warehouse through weighing machine. Further has stated that, approximately there

were four rows of essential commodities stored in the warehouse by keeping gap between each rows. Further has admitted that, some of the essential commodities, which were stored in the warehouse were damaged and deteriorated due to the leakage of rain water, as such they were kept open for its dry. Further has denied that, he has not conducted the raid and not weighed the essential commodities and they were kept open some of the essential commodities for dry. Further has denied that, the C.W.1 has not filed the complaint and no negligence occurred on the part of the accused and the accused has not committed any offence as alleged.

36. During the Cross-Examination P.W.5 has stated that, there was shortage of essential commodities stored in the warehouse as per the stock register of Karnataka Food and Civil Supplies Corporation Limited. Further has stated that, there is no date mentioned in the Panchanama. Further has denied that, he has deposed falsely in order to

help the complainant and further denied that, he has submitted false charge sheet against the accused.

37. On taking into consideration of the above evidence meticulously, no doubt the burden lies on the prosecution to prove the dishonest misappropriation of the accused. Further it is necessary to go through the ingredients of the alleged offence. The essentials of the constituting the criminal breach of trust, must be entrusting any person with the property or with any dominion over the property. Further the person entrusted must be dishonestly misappropriating or converting that property with his own use that property or dishonestly using or disposing of that property or willfully suffering any other person so to do violation of any direction of law prescribing the mode in which such trust is to be discharged or of any legal contract made touching to the discharge of such trust. Therefore, the offence consists of any one of the positive acts among misappropriation,

conversion, user of disposal of property and failure to account or breach of contract.

38. Admittedly, the prosecution has proved that, the accused was working as a Manager of warehouse situated at Ilkal complex within the limits of Hungund of Karnataka Food and Civil Supplies Corporation Limited. Further has proved that, the accused was entrusted with the custody of stock of essential commodities i.e. rice, sugar and salt. Further the prosecution proved that, the accused owed a duty to account for stock maintained at warehouse. In the instant case, the prosecution has alleged that, on 23.09.2008 at about 08.00 a.m., the C.W.1 visited the warehouse of Karnataka Food and Civil Supplies Corporation Limited situated at Ilkal as per the direction of his higher authorities. Further has conducted physical verification of essential commodities available in the warehouse and found that, there was a shortage of rice to the extent of 50 quintals and 97 K.G., sugar to the extent of 01 quintal and 04 K.G. and salt to the extent of 26

quintals and 96 K.G. as per the stock register. The accused was working as Manager of said warehouse, which were meant for the purpose of distribution of fair price shop to the nearby villages within the limits of Ilkal town. The accused failed to account them for shortage of stock of sugar, salt and rice as per the stock register.

39. It is pertinent to note that, in the evidence of P.W.1 has categorically stated that, had separately took the samples of essential commodities like sugar, rice and salt. Further, in the Cross-Examination of P.W.1 has categorically stated that, he and C.W.5 have conducted the physical verification at the warehouse. Wherein he found shortage of stock in respect of rice, sugar and salt by weighing them with a weighing machine in front of accused. The accused failed to account for the same and he did not produce the relevant documents. As such, the C.W.1 and 5 have conducted Panchanama in presence of the panchas and seized material objects at the instance of accused. On the basis of seizure mahazar and samples had

prepared a report and recorded the voluntary statement of accused in respect of shortage of rice, sugar and salt to the extent of 50 quintals and 97 K.G, 01 quintals and 04 K.G. and 26 quintals and 96 K.G. respectively as per the stock register. Thereafter has submitted the report along with materials and material objects before the higher authorities.

40. The defence of the accused is that, due to heavy rain in the month of September at Hungund there was a leakage in the warehouse. Due to leakage of rainwater in the warehouse, the essential commodities like rice, salt and sugar melted and damaged. Therefore, there was a shortage of stock in respect of rice, salt and sugar as per the stock register. Due to the said damage caused by the rainwater and the accused has not committed any criminal breach of trust. Though the accused has taken such a defence, but it is his duty to show that, there was a leakage due to rainwater in the warehouse and stock of the rice, salt and sugar were melted/damaged. Even the accused

has not produced the Photographs to show that, there was a leakage of water in the warehouse due to the said rain. Even otherwise, if anything caused harm or loss in the essential commodities kept in the warehouse, it is the duty of the Manager of said warehouse to submit the report, stating that, due to the melted/damage caused to the stock, there was a shortage found in the rice, sugar and salt. In the absence of such material objects the bald defence taken by the accused cannot be accepted in respect of shortage of essential commodities like sugar, salt and rice.

41. Admittedly, after completion of the evidence, the statement under section 313 of Cr.P.C. was recorded, read over and explained to the accused in his vernacular language by the trial judge. Wherein accused denied the incriminating circumstances against him are false and need not chosen to lead the defence evidence and not given any explanation. Even if it is assumed that, if during the month of September 2008, due to the heavy rain at Ilkal,

there was leakage in the warehouse and that leakage was caused melted/damaged the essential commodities like sugar, salt and rice. Further, the accused has not at all stated that, what prevented him to claim the defence evidence in order to explain the defence taken by him. In the instant case, the accused did not claim the defence evidence, which clearly goes to show that, the accused has failed to discharge his primary duty to maintain the stock in the warehouse.

42. Admittedly P.W.2 and 3 are the panchas, though they have turned hostile to the case of prosecution, however have admitted their signature on Panchanama and scene of offence i.e., where the Panchanama was conducted. Therefore, their evidence in respect of spot Panchanama conducted cannot be disbelieved. The evidence of P.W.5 is corroborated with the evidence of P.W.1 and P.W.4. Though the P.W.1, 4 and 5 have been subjected to cross-examined, but nothing has been elicited to disbelieve the case of prosecution. P.W.5 is the

Investigating Officer has categorically stated in his evidence, as to in which and what manner he has registered the case, conducted the investigation and filed the charge sheet against the accused person. During his Cross-Examination except denial nothing has been elicited truth as the entire investigation is false. Therefore, there are no any material available to disbelieve the evidence of P.W.1, 4 and 5.

43. Upon re-appreciation of entire evidence available on record, which are clearly demonstrate that, P.W.1, 4 and 5 and Ex.P.11 which clearly demonstrate that, the accused being a public servant and Manager of the said warehouse situated at Ilkal, who was entrusted with the stock of the properties kept in the warehouse. Therefore, it is his duty to maintain the said essential commodities and bound to account for the said essential commodities on par with the stock register. The prosecution has able to prove that, the stock of the essential commodities i.e. rice, sugar and salt, which was

entrusted to the accused/Manager of warehouse has failed to account for the same, as and when C.W.5 was conducted the physical verification. Therefore the accused has committed criminal breach of trust, as the accused being the public servant and Manager of the said warehouse has failed to take utmost care of the essential commodities of the rice, salt and sugar. Though it is his duty to take same degree of care and caution in respect of the essential commodities of the warehouse, failing which it amounts to breach of trust. The accused has not disputed that, he was not the Manager of the warehouse and no entrustment of the said essential commodities. When the entrustment is admitted by the accused in respect of the essential commodities of the warehouse, if he has not maintained the said essential commodities with due care and caution, which amounts to dishonestly misappropriated the properties.

44. Taking into consideration of the above discussion and re-appreciation of entire evidence of

prosecution witnesses, which clearly goes to show that, the judgment of the Trial Court is correct to the settled proposition of law. As all the witnesses have supported to the case of prosecution. The P.W.5 is the the Investigating Officer who has categorically stated about in which and what manner has registered the case, conducted the investigation and submitted the charge sheet against the accused. The evidence of P.W.1 and 4 are supported to the version of P.W.5. Looking into any angle, the entire evidence clearly establishes that, the impugned judgment of the Trial Court is correct and the prosecution has proved that, the accused being the public servant was entrusted as a Manager of Karnataka Food and Civil Supplies Corporation Limited warehouse at Ilkal. During the physical verification the C.W.1 found that, shortage of 03 essential commodities i.e. rice of 50 quintals and 97 K.G., Sugar of 01 quintal and 04 K.G. and 26 quintals and 96 K.G. of salt. Further, the accused failed to account for the same and failed to produce the display of price and stock.

Therefore, in my opinion the judgment of the Trial Court is not perverse, capricious and not calls for interference. Hence, I answer **Point No.1 in the Negative.**

45. **Point No.2:-** In view of my findings on the above point No.1, this appeal deserves to be dismissed. Thus, same is liable to be dismissed by confirming the impugned judgment, conviction and order of sentence. Being of that opinion, I proceed to pas the following:

ORDER

The criminal appeal filed U/Sec.374 of Cr.P.C., is hereby **dismissed.**

Consequently, the impugned judgment of conviction and sentence passed by the Ld. Additional Civil Judge and JMFC, Hungund, Sitting Itinerary Court at Ilakal in C.C.No.279/2009 dated 03.09.2024 convicting the accused for the offences punishable under Section 409 of Indian Penal Code and imposing sentence thereon, is hereby **confirmed.**

Appellant/accused is hereby directed to appear before the Ld. Trial Court to serve the sentence.

Office is hereby directed to send back L.C.R., along with certified copy of this judgment, forthwith.

(Dictated to the Stenographer Grade-III directly on the computer, script corrected and signed by me, then pronounced in the open court on this the 13th day of March 2026.)

(G. A. Mulimani)
II Addl. District and Sessions Judge,
Bagalkot,
Itinerary Court, Hungund.