

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 416 OF 2004

RAMESH CHAND

Appellant (s)

VERSUS

STATE OF UTTARANCHAL

Respondent(s)

Date: 30/09/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s) Mr. R.S.Hegde,Adv.
Mr. Avijit Wadhwa,Adv.
Mr. C.P.Tyagi,Adv.
Mr. P.P. Singh,Adv.

For Respondent(s) Mr. Abhay Prakash Sahai,Adv.for
Mr. Jatinder Kumar Bhatia,Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is disposed of with some modifications
in quantum of sentence.

[SUMAN WADHWA]
COURT MASTER

[VINOD KULVI]
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 416 OF 2004

RAMESH CHAND .. APPELLANT(S)

vs.

STATE OF UTTARANCHAL .. RESPONDENT(S)

O R D E R

Heard the learned counsel for the parties.

The allegation against the appellant is that when he
was posted as a Chowkidar of a godown in Uttarkashi,
Uttarakhand, he had been instrumental in the illegal sale
of departmental cement to a private party. He was

accordingly convicted and sentenced under Sec.457 and 380 of the IPC to two years R.I. under each Section, and for three months under Section 3/7 of the Essential Commodities Act. This conviction and sentence has been maintained by the High Court.

Before us today the learned counsel for the appellant has argued that there was no evidence to suggest that the appellant was in any way instrumental in the theft as it was PW.1 Junior Engineer Lakhan Lal who was in fact the in-charge of the cement and was responsible for the godown. The learned counsel has also argued that the story that the appellants had paid the loading charges to PW.3 Usman Ali for the truck to take away the cement was

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also wrong for the reason that Usman Ali had never been identified as a witness. He has finally prayed that as the matter pertained to the year 1982 and the appellant was about sixty years of age and had undergone a lengthy trial and other procedures in various courts, his sentence should be substantially reduced.

The learned State counsel has however controverted the submissions made by the learned counsel and has argued that no case for interference in the concurrent findings of the two Courts below, was called for.

We have heard the arguments advanced and find that two courts have concurrently found against the appellant. We also notice that the appellant's defence is that the Junior Engineer Lakhan Lal PW.1 was in fact instrumental in the theft. In other words, the appellant has denied that the cement was in fact removed at his instance. As the prosecution story that the appellant was a chowkidar of the godown from which the cement had been removed has been proved it cannot be said that the appellant was ignorant of the theft. On the contrary when arrested, he was cleaning

the road in front of the godown to remove the traces of cement which had fallen when the cement was being loaded into the truck. The learned counsel pointed out that the appellant was not a Chowkidar and was only a muster

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roll employee of the Department. We find that muster roll employees are often deputed as Chowkidars in PWD godowns. No argument can be raised on this score.

We however see some merit in the submission that a mitigating circumstance on the quantum of sentence can be found in the light of the fact that the matter is a very old one. As already noted above, the incident had happened on 3rd December 1982; twenty eight years have elapsed since then. We, therefore, feel that the sentence awarded to the appellant should be reduced from two years RI to one year RI under Sections 457 and 380 of the IPC, the other parts of the sentence being maintained as it is.

The appeal is disposed of with the above modification in the quantum of sentence. The appellant is on bail, his bail bonds shall stand cancelled.

.....J.
(HARJIT SINGH BEDI)

.....J.
(CHANDRAMAULI KUMAR PRASAD)

New Delhi,
September 30, 2010.