

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

Petition(s) for Special Leave to Appeal (Crl) No(s).524/2014

(From the judgement and order dated 08/04/2008 in CRLRC No.119/2003, of The HIGH COURT OF MADRAS)

POTHIREDDI

Petitioner(s)

VERSUS

STATE REP. BY SUB-INS. OF POLICE,C.C.I.W

Respondent(s)

(With appln(s) for stay,bail,exemption from filing O.T. and office report))

Date: 28/02/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s)

Mr. R.Venkataraman, Adv.
Mr. V.Senthil Kumar, Adv.
Mr. M.A.Chinnasamy,Adv.

For Respondent(s)

Mr. Subramonium Prasad, AAG,
Mr. M. Yogesh Kanna,Adv.
Mr. A.Santha Kumaran, Adv.
MS. Vanita C Giri, Adv.

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

Leave granted.
The appeal is allowed in terms of the signed order.

|(Shashi Sareen)
|Court Master

| |(Saroj Saini)
| |Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRILMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 556 of 2014
(Arising out of SLP (Crl.) No.524 of 2014

Pothireddi

....Appellant

Versus

O R D E R

Leave granted.

By an order dated 4.4.2007 passed by the Trial Court the appellant was convicted for offences punishable under Sections 477(a) and 408 Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of two years with a fine of Rs.3,000/-. In default of payment of fine he was sentenced to undergo further imprisonment for a period of three months.

Aggrieved by his conviction and the sentence awarded to him the appellant appealed to the Sessions Judge at Thoothukudi. The Appellate Court re-appraised the evidence adduced at the trial affirmed the view taken by the Trial Court and dismissed the appeal by its order dated 29.11.2002. A revision petition then came to be filed before the High Court of Madras Madurai Bench which has been dismissed by the High Court in terms of its order dated 8.4.2008 upholding the conviction and sentence of the appellant. The present appeal assails the correctness of the said judgment and order.

When the matter initially came up before us on 28.10.2013 learned counsel for the appellant submitted that the appellant was ready and willing to deposit the amount of Rs.1,51,806.51 allegedly embezzled by the appellant. That deposit having been made, we issued notice in the special leave petition limited to the question of quantum of sentence only by order dated 10.1.2014.

We have accordingly heard learned counsel for the parties on the said limited question. The appellant it appears was working as Secretary of Chandragiri Primary Agriculture Co-operative Bank during the period he is alleged to have embezzled the amount of Rs.1,51,806.51. The first information report lodged against him in connection with offence was registered in the year 1999. The conclusion of the trial and the disposal of the appeal and revision took over one decade. That apart the appellant has placed on record material to show that he suffers from 100% visual impairment besides mental retardation. That is evident from the identity card issued by the Government of Tamil Nadu for grant of disability benefits etc. A certificate suggesting that the appellant suffers from mental retardation is also placed on record. The appellant is nearly 63 years old at present. Suffice it to say that not only the physical handicap which the appellant suffers from but the fact that he has already undergone imprisonment for nearly one year calls for a lenient view in terms of reduction of the quantum of sentence awarded to him. Added to all this is the fact that he has already deposited the amount allegedly embezzled by him. In the circumstances, therefore, and for the reasons stated above we are inclined to reduce the sentence awarded to the appellant to the period already undergone.

We accordingly allow this appeal and modify the order passed by the High Court to the extent that instead of three years rigorous imprisonment the appellant is sentenced to the period already undergone. Consequently the appellant shall be set free if not required in connection with any other case but subject to his depositing the fine imposed by the courts below, failing which he shall undergo the default sentence awarded to him.

.....J.
(T.S. THAKUR)

.....J.
(N.V. RAMANA)

New Delhi
February 28, 2014