

**IN THE COURT OF THE SPECIAL JUDGE, C.B.I., COURT NO.III,
BHUBANESWAR.**

**PRESENT : Sri B.N. Das,
Special Judge, C.B.I.,
Court No.III, Bhubaneswar.**

**T.R.Case No. 9/17 of 2013/2008
(Arising out of R.C. 15(A)/2007)**

Date of argument : 13.3.2014

Date of Judgment : 25.3.2014

REPUBLIC OF INDIA

Versus..

**Rabindra Nath Pradhan, aged about 60 years,
Son of Dhanjaya Pradhan, Vill/P.O. Mirigini P.S.
Nilagiri, Dist. Balasore.**

... Accused.

For the Prosecution : Sri K. C.Mishra,Sr. P.P.,CBI,
Sri Ashish Jaiswal, P.P.CBI.

For the Accused : Sri L.N. Patnaik and
Sri S.K. Sahoo,
Advocates.

J U D G M E N T

The accused stands charged Under Sec.409 of the Indian Penal Code and Under Sec. 13(1)(c)read with Sec.13(2) of the Prevention of Corruption Act, 1988 for committing criminal breach of trust and misappropriation of Rs.89,380/- as a public servant.

2. The prosecution case in brief is that the accused was functioning as Gramin Dak Sevak Branch Post Master at Mirigini Branch Post Office in account with Rajnilagiri Sub-Post Office, Dist. Balasore in the capacity of a public servant during the period from 25.9.1989 to 06.12.2006. He was the authorised person to make entries of deposits, withdrawals in his own hand under his initials and signatures with date stamp impressions of the said branch office and was maintaining all connected records. He was also sole custodian of stamps and seals of the office and was authorised to use the same as and when required. During his continuance, he received money from different S.B. and R.D. account holders in order to deposit the same in their respective accounts, but without accounting for the same in the relevant post office records, he misappropriated different amount of 14 SB account holders without reflecting in the ledger and other connected records. He misappropriated total amount to the tune of Rs.89,380/- from 14 SB accounts, for which, Kailash Chandra Mohanty, Superintendent of Post Office (P.W.8) lodged a written report before S.P., CBI, (vide Ext.12) basing on which R.C.No.15(A)/2007 was registered under Sec.409, 468,477-A of Indian Penal Code and Under Sec.13(1)(c) read with Sec.13(2) of Prevention of Corruption Act 1988, and direction was given for investigation. Since it was detected that the above amount of Rs.89,380/- has been misappropriated by accused Rabindra Nath Pradhan by abusing his official position and causing loss to postal department, on completion of investigation charge sheeted was submitted by C.B.I. after obtaining sanction of prosecution from competent authority under Sec.409 I.P.C. and

Under Sec.13(2) read with Sec. 13(1)(c) of the Prevention of Corruption Act, 1988, for which, accused faced trial on the charges levelled against him.

3. The defence plea is one of complete denial and complicity of accused in the alleged crime.

4. On the rival submission of P.P. C.B.I and learned defence counsel, the following points fall for determination are:

- (i) Whether the accused during the period from 25.9.1989 to 06.12.2006 was working as Gramin Dak Sevak Branch Post Master of Mirigini Branch Post Office and in such capacity of a public servant he was entrusted with deposit of Rs.89,380/- in 14 SB accounts or having dominion over the said property committed criminal breach of trust ?
- (ii) Whether the accused during the aforesaid period being a public servant working as Gramin Dak Sevak Branch Post Master by corrupt and illegal means or otherwise abusing his position as such public servant obtained for himself pecuniary advantage to the tune of Rs.89,380/- which was deposited by the 14 SB account holders of Mirigini Branch Post Office, Mirigini ?

5. In order to establish the charges against the accused, prosecution has examined altogether 21 witnesses out of whom P.W.1 to 6, P.Ws.10 to 14 and P.Ws.17 to 19 are account holders, P.W.8 is the Senior Post Master who has lodged FIR, P.W.7 is the Senior Supttd. of Post office who has sanctioned the prosecution, P.W.9 is the Branch Post master in-charge of Mirigini Post Office, P.W.15 is the Inspector of Posts, P.W.20 is the Asst. Superintendent

of Posts and P.Ws.16 and 21 are the Investigating officers. No evidence has been adduced on the side of defence.

6. P.W.8 being the Superintendent of Post Office, Balasore has lodged the FIR before the CBI alleging that there is misappropriation of different deposit amount from 14 S.B. account and one R.D. account of different account holders. On the report of above witness, the case was registered and investigation was taken up. His evidence further reveals that the accused was working as Branch Post master, Mirigini Branch Post office under Raj Nilagiri Sub-Post Office since 25.9.1989 till his joining and during his tenure, he has mis-appropriated the amount from S.B. account and R.D. account. It is revealed from the evidence of account holders that different amounts though have been deposited by them and same have been misappropriated by the accused.

7. It is revealed from evidence of P.W.1 that he had deposited Rs.8000/- on 28.5.2005 in his account and the accused made entry in the pass book vide Ext.1. He has not withdrawn any amount on 16.5.2006 though withdrawal slip vide Ext.2 has been signed by him. P.W.2 has also disclosed that on 28.9.2005, he deposited Rs.7000/- and gave the money to the accused who made necessary entry in his pass book vide Ext.3 bearing account No.334182. On 22.11.2005 he has not withdrawn amount of Rs.1950/- vide his withdrawal slip Ext.4. P.W.3 in his evidence has stated that he had deposited Rs.5000/- in his account No.335371 and states to have paid the amount to the accused on 2.3.2006 to which the accused received and made entry in the pass book. He

has not withdrawn Rs.2000/- on 10.10.2006 and Rs.1000/- on 27.10.2006. Similarly, P.W.4 also states that she has opened the S.B. account at Mirigini Post Office on 16.7.2004 vide account No.336024 and on 21.6.2006, she had deposited Rs.4100/-. Similarly on subsequent dates, she had deposited Rs.200/-, Rs.500/- and Rs.1000/- and entries have been made in the pass book. She admits to have not withdrawn an amount of Rs.1400/- from her account on 9.8.2006. Ext.7 does not reveal withdrawal of any amount.

8. P.W.5 in his evidence has deposed that he had deposited Rs.5900/- on 28.10.2006 and has handed over the money to the accused to which he made entry in the pass book and put his initial with seal. This witness has proved his pass book vide Ext.8 and states to have withdrawn Rs.10,000/- and Rs.5900/- on two different dates only. Hence, there is misappropriation of Rs.5900/- from his pass book. P.W.6 has stated that he had opened the pass book bearing No.333336 initially depositing Rs.220/- vide Ext.9 and states to have not received any counter foil in respect of any deposit. He had not withdrawn Rs.720/- for second time on 20.3.2006. The accused had taken his signature on blank withdrawal slip. P.W.11, the account holder has stated about the mis-appropriation of Rs.7200/- from her account bearing No.331474. Though she has proved the withdrawal form vide Ext.94 to 97, she does not admit the entries in the said withdrawal forms. P.W.12 the account holder has stated that a sum of Rs.3900/- has been misappropriated from her account No.335191

and she has not refunded any deposit amount at any point of time. P.W.13 is the account holder who has disclosed that she has deposited Rs.16812/- in her account and there has been misappropriation of Rs.11800/- out of the deposited amount. Though she admits her signature in the withdrawal slip, there is no writing in the same except her signature. Another account holder (P.W.14) has disclosed that he has deposited Rs.2000/- and Rs.5000/- in his account on two different occasions and no amount has been withdrawn by him. As such Rs.7000/- has been misappropriated from his account. From the evidence of P.W.17, it is revealed that he had deposited Rs.5000/- each on two different occasions on 2.9.2006 and 13.9.2006 and he had not been given counter foil. P.W.18 has also admits in his evidence that he had deposited Rs.5200/- on 10.8.2005 in his account vide Ext.16 and he has not got the counter foil in respect of that deposit.

9. P.W.19 has disclosed in her evidence that she has opened the pass book vide Ext.13 and has deposited Rs.3000/- and Rs.4000/- on two different occasions. She has further stated that she has not been given counter foil. Though she had signed the withdrawal voucher dtd.14.9.2006 for Rs.2000/-, necessary entries have not been made by her. From the evidence of above witnesses, it is revealed that there has been misappropriation of Rs.89380/- from different accounts on different occasions for which (Superintendent of Post Office), P.W.7 (being Superintendent of Post Office, Balasore) had accorded sanction of prosecution against the accused vide (sanction order Ext.11) after perusing the

documents such as SB journals, ledger cards, pass books, R.D. journals, account books and daily accounts etc.

10. P.W.9 was the Branch Post Master, Mirigini Branch Post office. His evidence reveals that the accused Rabindra Nath Pradhan was working as Branch post master and was placed under suspension. He has proved the postal savings pass books vide Ext.13 to 21 which bear the handwriting and signature of accused. According to him the daily account maintained by the accused for the period from 16.10.2004 to 31.10.2005 proved vide Ext.22 to 83 bears his handwriting and signature. Similarly the account book vide Ext.84 to 86 has been maintained by the accused which bears his signature Ext.84/1 to Ext.86/1. Also the SB journals proved vide Ext.87 to 91 bear the handwriting and signature of the accused and post mark book of Mirigini Branch Post office proved vide Ext.92 and 93 also bear the handwriting and signature of the accused.

11. According to P.W.15, accused Rabindra Nath Pradhan was functioning as Branch Post master otherwise known as extra departmental branch post master of Mirigini Branch Post Office during relevant period when offence was committed and he has made the entries in the pass books as well as in the documents such as S.B. journal, R.D. journal and account book of branch post office and daily account. According to him, even if there is clear procedure of withdrawal and deposits supported by vouchers, same has not been followed by the accused. At the closing of the day, it is the duty of the post master to make entry in the connected S.B. journals or R.D. journals and the closing of days work, he should

account for the amount along with connected vouchers. It is his foremost duty to account for as he is the sole custodian of all the records and documents. P.W.15 is no doubt an important witness for prosecution. It is seen from his evidence of above witness that amount of Rs.6000/- deposited on 16.10.2004, Rs.800/-deposited on 25.5.2004 and Rs.500/- deposited on 15.1.2005 as well as withdrawal of Rs.2000/- on 21.7.2004, Rs.1000/- on 22.7.2004 and Rs.15,000/- on 17.1.2006 have not been reflected in S.B. journals vide Ext.87,88,89 and 91. Similarly, same have not been reflected in daily account vide Ext.22 to Ext.83 and Ext.119 as well as in the account book vide Ext.84 to 86. Amount of Rs.2000/- and Rs.5000/- deposited on 15.9.2004 and 6.10.2006 respectively in account No.332777 as well as Rs.2400/-, Rs.800/- deposited on 12.9.2005 and 20.9.2005 respectively in account No.333044, Rs.650/-, 400/-, 150/-,Rs.300/-, 100/-, Rs.200/-, Rs.100/- and 150/- and Rs.200/- deposited on 2.4.2005, 7.4.2005, 4.7.2005, 10.9.2005, 23.11.2005, 31.1.2006, 29.5.2006, 26.7.2006 and 21.9.2006 in account No.333336 though have been entered in the pass book, same have not been reflected in S.B. journal as well as in daily account. Similarly, an amount of Rs.3000/- on 23.2.2005, Rs.3000/- on 31.3.2005, Rs.2500/- on 16.6.2005, Rs.3200/- on 22.7.2005 as well as withdrawals from account No.333729 have not been reflected in SB journals as well as daily accounts. It is further revealed that Rs.8000/- deposited on 28.5.2005 and withdrawals on 8.6.2005, 14.6.2005, 8.5.2006, 9.5.2006 and 23.9.2006 in account No.334133 have not been reflected and a sum of Rs.8000/- have been misappropriated from this account. From S.B. account No.334182

deposited amount of Rs.7000/- on 20.9.2005, withdrawal of Rs.2000/-, Rs.2000/- and Rs.4950/- on 22.11.2005, 27.1.2006 and 26.10.2006 have not been accounted for and reflected either in SB journal or of daily account though same have been entered in the concerned pass book. Similarly Rs.3900/- deposited on 31.5.2005 as well as subsequent withdrawals in respect of account No.335191 have not been reflected either in SB journal or daily account. The accused has misappropriated a sum of Rs.3900/- from this account. The amount of Rs.5000/- deposited on 2.3.2006 and withdrawal of Rs.2000/-, Rs.1000/- on 10.10.2006 and 27.10.2006 in respect of account No.335371 have not been reflected in the SB journal and daily account book and a sum of Rs.5000/- has been misappropriated from this account. In respect of SB account No.335565, a sum of Rs.5200/- has been deposited on 10.8.2005 which has been misappropriated without accounting for the same in any government account and subsequent withdrawals have not been reflected either in SB journal or in daily account. In respect of SB account No.335779, a sum of Rs.5100/- deposited on 28.10.2006 as well as Rs.4100/-, Rs.200/-, Rs.500/- and Rs.1000/- deposited in Account No.336024 on different dates have not been reflected in daily account as well as in SB journals. Similarly Rs.3000/- and Rs.4000/- deposited on 22.4.2006 and 29.7.2006 have not been reflected in daily account book and SB journal though entries have been made in the pass book No.336146 and the amount of Rs.7000/- has been misappropriated from this account. Similarly, from the account bearing No.336792, an amount of Rs.1000/- has been misappropriated though Rs.5000/- has been deposited on

2.9.2006 and Rs.5000/- on 13.10.2006. Same have not been reflected in SB journal and daily account book by the accused. Hence, it is crystal clear from the evidence of above witness supported by documentary evidence that the accused has misappropriated to the tune of Rs.89380/- from 14 numbers of S.B. accounts on different dates without accounting for the same in daily account, SB journal and without crediting the same to the department. It is established from the evidence of the above witness that the entries made in the pass books, withdrawal slips as well as concerned registers bears the signature and handwriting of the accused. This witness has also disclosed in his evidence that accused has sent letters to sub-post master, Raj Nilagiri seeking permission to deposit the misappropriated amount of Rs.11,000/-, Rs.20,000/-, Rs.10,000/-, Rs.10,000/-, Rs.10,200/- and Rs.1000/- vide Exts.129 to 134 which bear the handwriting of the accused. Similarly, he had deposited Rs.250/- on 17.10.2006 vide Ext. 128/1, Rs.1000/- on 28.10.2006 vide Ext.128/2, Rs.10,200/- on 27.11.2006 vide Ext.127/1, Rs.10,000/- on 11.12.2006 vide Ext.127/2, Rs.10,000/- on 8.1.2007 vide Ext.127/3, Rs.20,000/- on 10.1.2007 vide Ext.127/4 and Rs.11,000/- on 22.1.2007 vide Ext.127/5 with permission of postal authorities. The accused has admitted about the commission of misappropriation of money from various accounts and his statements have been proved vide Ext.100 to Ext.114 along with signature of Exts.100/1 to Exts.114/1 during course of enquiry. Nothing has been brought out substantial from the evidence of P.W.15 to discredit his testimony. His testimony is

supported by the documents seized in connection with the above noted case and the fact of misappropriation has been proved.

12. P.W.20 the Asst. Superintendent of Post Office, Balasore in his evidence has stated that the accused was functioning as Branch post master w.e.f. 25.9.1989 and from his custody, the SB journals, pay-in-slip of R.D. account and S.B. account, daily account of said post office and branch post office have been seized vide seizure list Ext.165.

13. P.W.21 the Investigating officer in his evidence has stated that he has taken up the investigation on 29.6.2007 after registration of the case as per the direction of S.P., CBI basing on the written complaint vide Ext.12. During course of his investigation not only, he has recorded the statement of witnesses but also has seized the relevant documents in connection with this case such as SB pass books, post office ledger, R.D. journal, SB journal, daily account and other relevant documents vide seizure list Ext.165 on production of P.W.20 and subsequently, he handed over the investigation of this case to P.W.16 who took over charge of the case on 4.5.2008 and after obtaining sanction of prosecution submitted Charge sheet against the accused vide charge sheet No.31 dtd.30.6.2008 vide Ext.164. Though the material prosecution witnesses have been cross-examined by the defence, there is no substantial factor to discredit the testimony of prosecution witnesses. The evidence of material witnesses like P.W.8, 9, 13, 15, 16, 20 and 21 remain un-assailed and nothing substantial has been brought out from their evidence to discredit their testimony.

Moreover, the accused himself has admitted to have deposited the amount misappropriated by him on different occasions after obtaining permission from the department and the same have been proved vide Ext.129 to Ext.134.

14. From the evidence on record, it is clearly established that the accused was working as Branch Post Master otherwise known as extra departmental branch post master of Mirigini Branch Post Office during the relevant period *and* he was over all charge of the records and registers of said post office. He was entrusted with the work of post master and to maintain the records and registers. Instead of depositing the amount of account holders, he had misappropriated the amounts as specified from different pass books amounting to Rs.89380/- to which he had admitted and subsequently deposited the same with permission of postal authority. The signatures and entries have been made by the accused himself in the registers as well as pass books as supported by evidence of other prosecution witnesses. In view of the evidence advanced by the prosecution, the ingredients of the offence under Sec.409 I.P.C. and under Sec.13(1)(c) read with Sec.13(2) P.C. act are well established against the accused beyond all reasonable doubt.

15. In view of the evidence on record, I am driven to hold that the prosecution has well proved the case against the accused beyond all reasonable doubt. Accordingly, the accused is held guilty

of the offence under Sec.409 I.P.C. and under Sec. 13(1)(c) read with Sec.13(2) of P.C. Act and is convicted there under.

SPECIAL JUDGE,CBI, COURT NO.III,
BHUBANESWAR.

Dictated & corrected by me and pronounced in the open Court today on 25th March, 2014 under my seal and signature.

SPECIAL JUDGE, C.B.I., COURT NO.III,
BHUBANESWAR.

HEARING ON THE QUESTION OF SENTENCE:

Heard the convict on the question of sentence. It is submitted by the learned defence counsel that there is no adverse antecedent and complain against the accused. Moreover, he has deposited the misappropriated amount, for which, a lenient view may be taken in awarding sentence. On the other hand learned P.P., CBI submitted that the convict deserves exemplary punishment for committing such offence which is against the society at large.

Considering the gravity of the offence as well as submission of both the counsels and also the amount deposited by the convict, I am of the considered opinion that a lenient view be taken in respect of the convict. Consequently, the convict is

sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.5000/- (Rupees Five Thousand) in default to suffer rigorous imprisonment for three months for the offence under Sec.409 I.P.C. and to undergo rigorous imprisonment for one year and to pay a fine of Rs.5000/- (Rupees Five Thousand) and in default to undergo R.I. for three months for the offence under Section 13(1)(c) read with Sec.13(2) of P.C. Act with a direction that the sentences shall run concurrently.

The seized documents be returned to the person from whom seized after cancelling the zimanama after four months of appeal period, if no appeal is preferred and in the event of appeal subject to the order of appellate court.

SPECIAL JUDGE,C.B.I.,COURT NO.III,
BHUBANESWAR.

Dictated & corrected by me and is pronounced in the open court today i.e. on 25th March, 2014.

SPECIAL JUDGE,C.B.I.,COURT NO.III,
BHUBANESWAR.

LIST OF WITNESSES EXAMINED FOR THE PROSECUTION:

P.W.1	Gangadhar Nayak
P.W.2	Binod Kumar Parida
P.W.3	Biju Singh
P.W.4	Sujata Parida
P.W.5	Pradip Kumar Jena
P.W.6	Krushna Chandra Sethy

P.W.7	Satyabrata Satpathy
P.W.8	Kailash Chandra Mohanty
P.W.9	Manoranjan Behera
P.W.10	Sudarsana Patra
P.W.11	Sabitri Swain
P.W.12	Hemamani Patra
P.W.13	Sabitri Sethi
P.W.14	Gajendra Patra
P.W.15	Gopabandhu Sahoo
P.W.16	Sachidananda Rath
P.W.17	Kamala Kanta Mishra
P.W.18	Parama Singh
P.W.19	Sandhya Dalei
P.W.20	Susen Peda
P.W.21	Ranjan Kumar Das

LIST OF WITNESSES EXAMINED FOR THE DEFENCE:

None.

LIST OF DOCUMENTS ADMITTED BY THE PROSECUTION :

Ext.1.	Pass book of P.W.1.
Ext.2	Withdrawal slip.
Ext.3	Pass Book of P.W.2.
Ext.4	Withdrawal slip.
Ext.5	Pass Book of P.W.3.
Ext.6	Pass book of P.W.4.
Ext.7	Withdrawal slip.
Ext.8	Pass book of P.W.5.
Ext.9	Pass book of P. W.6.
Ext.10	Withdrawal slip.
Ext.10/1	Signature of P.W.6 on Ext.10.
Ext.11	Sanction order.
Ext.11/1	Signature of P.W.7 on Ext.11.
Ext.12	F.I.R.
Ext.12/1	Signature of P.W.8 on Ext.12.
Ext.13 to 21	Postal Pass books.
Ext.13/1 to 20/1	Signature and handwriting of accused on Ext.13 to Ext. 21.
Ext.22 to 83	Daily accounts of Branch Office.

Ext.22/1 to 83/1	Signatures with handwriting of accused Ext.22 to Ext.83.
Ext.84 to 86	Account books.
Ext.84/1 to 86/1	Handwriting with signature of accused on Ext.84 to 86.
Ext.87 to 91	S.B. Journals of Mirigini Branch Post Office.
Ext.87/1 to 91/1	Handwriting and signature of accused on Ext.87 to 91.
Ext.92 & 93	Post Mark book of Mirigini Branch Post Office.
Ext.92/1& 93/1	Handwriting and signature of accused on Ext.92 & 93.
Ext.94 to 97	Withdrawal forms.
Ext.98 & 99	Withdrawal slips.
Ext.98/1 & 99/1	Signatures of P.W.13 on Ext.98 & 99.
Ext.100 to 114	Statement of accused.
Ext.100/1 to 114/1	Signatures of accused.
Ext.115	Forwarding letter of Susen Peda.
Ext.115/1	Signature of Susen Peda.
Ext.116	Appointment letter of accused.
Ext.117	Departmental rule.
Ext.118	Departmental proceeding.
Ext.119	Two Daily accounts.
Ext.120 to 124	R.D. journals of Mirigini Post Office.
Ext.125	Withdrawal slip.
Ext.126	Seizure list.
Ext.127 & 128	Unclassified receipt books.
Ext.129 to 134	Letters of accused to Sub-Postmaster, Rajnilagiri seeking permission of deposit.
Ext.127/1 to 127/5	Deposit slips.
Ext.128/1	Deposit slip.
Ext.128/2	Deposit slip.
Ext.127/1 to 127/5	Deposit slips.
Ext.135 to 146	Deposit slips.
Ext.147 to 161	Ledgers seized by I.O.
Ext.162 & 163	Ledger copies maintained in Sub-Post Office, Rajnilagiri.
Ext.164	Charge sheet No.31 dtd.30.6.2008 submitted by P.W.16.
Ext.164/1	Signature of P.W.16 on Ext.164.

Ext.165	Seizure list.
Ext.165/1	Signature of P.W.20 on Ext.165.
Ext.166	Seizure list.
Ext.166/1	Signature of P.W.20 on Ext.166.
Ext.167	Formal FIR.
Ext.167/1	Signature of S.P. C.B.I., Pranab Mohanty.
Ext.12/2	Endorsement of K.C.Mohanty, Superintendent of Post Office.
Ext.165/2	Signature of P.W.21 on Ext.165.
Ext.165/3	Signature of Susen Peda with endorsement.
Ext.166/2	Signature of P.W.21 on Ext.166.
Ext.166/3	Signature with endorsement of Susen Peda on Ext.166.
Ext.126/1	Signature of P.W.21 on Ext.126.
Ext.126/2	Signature of Gopabandhu Sahoo, Inspector of Posts on Ext.126.

LIST OF DOCUMENTS ADMITTED BY THE DEFENCE :

Nil.

SPECIAL JUDGE,C.B.I.,COUR NO.III,
BHUBANESWAR.

