IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 635 of 2015

Ram Lakhan Giri, S/o. Late Raj Narayan Giri, R/o. Bank Colony, Anand Bazar, Dumaria, P.O. & P.S.- Gumla, Dist.- Gumla, Jharkhand. ... ... Petitioner

Versus

The State of Jharkhand …… Opp. Party

PRESENT

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioner : Mr. Rajesh Kumar, Advocate
For the State : Mr. Bhola Nath Ojha, Spl.P.P.

Judgment

C.A.V. On: 7th July, 2026 **Pronounced On: 05/10/2026**

1. Heard learned counsel for the petitioner as well as learned Special P.P.

2. Instant Criminal Revision is directed against the judgment dated 31.03.2015 passed in Cr. Appeal No. 75 of 2012 by the learned Addl. Sessions Judge-II, Gumla, whereby and whereunder, the judgment of conviction and sentence dated 05.10.2012 passed by learned Sub-Divisional Judicial Magistrate, Gumla in G.R. No. 585 of 2002 / T. R. No. 116 of 2012 arising out of Kamdara P.S. Case No. 41 of 2002, whereby the petitioner has been held guilty for the offence under Section 409 of the I.P.C. and sentenced to undergo R.I. for 3 years alongwith the fine of Rs. 5,000/- with default stipulation, has been upheld and confirmed.

Factual Matrix:-

3. Factual matrix giving rise to this revision is that the informant Bipin Bihari Mishra being authorized by Central co-operative Bank

Limited, Headquarter's Letter No. 915 dated 03.10.2002 lodged an F.I.R. and also directed departmental inquiry against one Chandra Shekhar Singh, the then Assistant-cum-Cashier of the Central Co-operative Bank Limited, Kamdara, Gumla. It is alleged that Chandra Shekhar Singh has misappropriated Rs. 60,895.24/- from the locker of the said bank. It is alleged that according to the official audit dated 03.10.2002, the shortage of aforesaid amount was detected. One of the key of locker was in custody of accused Chandra Shekhar Singh, hence, no withdrawal could be possible without his connivance.

4. On the basis of information, F.I.R. was registered being Kamdara P.S. Case No. 41 of 2002 for the offence under Section 409 of the I.P.C. against accused Chandra Shekhar Singh.

5. After completion of investigation, charge-sheet was also submitted for the aforesaid offence against the accused Chandra Shekhar Singh.

6. During the pendency of trial in the above G.R. Case No. 585 of 2002 arising out of Kamdara P.S. Case No. 41 of 2002, the involvement of the present petitioner Ram Lakhan Giri, the then Branch Manager, was also found. Hence, he has also been made an accused exercising the power under Section 319 of the Cr.P.C.

In the Original record, vide order dated 25.08.2004, the present petitioner Ram Lakhan Giri, the then Branch Manager of the said bank was also arrayed as an accused and the learned Trial Court summoned for his appearance and his case was split up vide order dated 07.01.2005 from original case record.

7. After supply of police paper, the charge under Section 409 of the I.P.C. was read over and explained to the present petitioner on 04.05.2006, to which he pleaded not guilty and claimed to be tried.

8. In the course of trial, altogether, 06 witnesses have been examined by the prosecution.

I. P.W.-1 Bandhan Baitha

II. P.W.-2 Bipin Bihari Mishra

III. P.W.-3 Eren Ekka

IV. P.W.-4 Chandan Mahto

V. P.W.-5 Dayanand Choudhary

VI. P.W.-6 Sikandar Ram

Apart from oral testimony of witnesses, following documentary evidence has also been adduced by the prosecution:-

i. Ext.- 1, 1/1 & 1/2: Page No. 131, 132 & 133 of Cashbook.

ii. Ext.-2: written report

iii. Ext.-3: Inquiry report

9. However, no oral or documentary evidence has been adduced by the defence. The case of the defence is denial from the occurrence and false implication and plea of innocence.

10. The learned Trial Court after scrutinizing the evidence available on record both oral as well as documentary arrived at conclusion about the guilt of the petitioner for the offence under Section 409 of the I.P.C. and accordingly, convicted and sentenced him, which was also confirmed and upheld by the learned Appellate Court as stated above, which has been assailed in this revision.

Submission on behalf of the Petitioner:-

11. Learned counsel for the petitioner has strenuously argued that the learned Trial Court as well as the learned Appellate Court have committed serious error of law while appreciating the evidence available on record. It is clear cut case of the prosecution that the main accused Chandra Shekhar Singh was Assistant-cum-Cashier at the relevant time and Enquiry Committee has also held Chandra Shekhar Singh guilty for the said defalcation and F.I.R. was instituted against him. The present petitioner was dragged in this case using power of Section 319 of the Cr.P.C. only on the ground that he was possessing one of the key of the locker and another key was belonging to Chandrashekhar Singh. The documentary evidence adduced by the prosecution also shows the involvement of only Chandrashekhar Singh and not the present petitioner. The inquiry committee constituted by the Managing Director of the Co-operative Bank had found only the Assistant-cum-Cashier Chandrashekhar Singh guilty, which is evident from the documentary evidence adduced by prosecution. The learned Trial Court and the learned Appellate Court has also failed to consider that the informant Bipin Bihari Mishra (PW-2) and Chandan Mahto (PW-4) have categorically admitted in their evidence that key no. 2, which was in possession of the petitioner was used for first layer opening and second layer closing. It is further submitted that the present petitioner was exonerated from departmental proceeding. Therefore, no case under Section 409 of the I.P.C. is made out against the present petitioner. There is no direct or circumstantial evidence showing that the petitioner has defalcated the

amount mentioned in the F.I.R., rather co-accused Chandrashekhar Singh was held guilty after trial and he has also deposited the said defalcated amount in the bank. The petitioner is absolutely innocent and at present aged about 80 years. Therefore, the impugned judgment and order of conviction and sentence of the petitioner passed by the learned Trial Court and upheld by the learned Appellate Court suffers from serious error of law and liable to be set aside allowing this revision.

Submission on behalf of the State:-

12. On the other hand, learned Special P.P. has opposed the aforesaid contentions raised on behalf of the petitioner and has submitted that there is concurrent finding by the learned Trial Court as well as learned Appellate Court about guilt of the petitioner, who was also involved in the said defalcation. The accused Ram Lakhan Giri was posted as the Branch Manager in the Gumla-Simdega Central Cooperative Bank, Kamdara Branch, and he, along with the Assistant-cum-Cashier Chandrashekhar Singh of the said bank, embezzled a total of Rs. 60,895.24/-. This fact has been supported by Prosecution Witness Nos. 2, 3, 4, 5, and 6 in their testimonies, and the documentary evidence also confirms this fact. The prosecution evidence confirms that the incident could not have been executed without the consent and collusion of the Branch Manager. There is no reason to take different view from the learned Trial Court as well as learned Appellate Court and this revision, being devoid of merit, is fit to be dismissed.

Analysis, discussion and reasons:-

13. I have gone through the record of the case alongwith the impugned judgment passed by the learned Trial Court as well as the learned Appellate Court in the light of contentions raised on behalf of both the parties.

14. The only point for consideration in this revision is, as to whether the impugned judgment passed by the learned Trial Court and upheld by the learned Appellate court suffers from any serious error or law calling for any interference or not?

15. Before adjudicating the above point, it is pertinent to apprise with the testimony of the witnesses examined during trial.

16. It appears that altogether 6 witnesses have been examined by the prosecution.

PW-1 Bandhan Baitha has shown his unawareness about the occurrence. As such, he has been declared hostile by the prosecution.

PW-2 Bipin Bihari Mishra has stated in the deposition that on 04.10.02, he gave his joining at Kamdara Co-operative Bank and took over the charge from the accused Ram Lakhan Giri. Before his joining in the said bank, an inspection had already taken place. At the time of taking over the charge, Rs. 76,493/- was found less from the actual chest upon cross-checking with the Cash Book. Prior to his joining, an inquiry was conducted pursuant to the order of the Managing Director, Gumla Co-operative Bank. In that inquiry, Rs. 60,895.24/- was found less from the cash book in the bank. He has further stated that according to the order in Letter No. 315 from the Managing Director,

an instruction was given to file a First Information Report (F.I.R.) against Cashier-cum-Assistant. It is the responsibility of the Branch Manager to ensure that before closing the bank every day, they match the existing cash with the cash book and the safes. In those days, Chandrashekhar Singh was the cashier of the Kamdara Branch. There are two keys to the bank's cash safe (vault). One key remains with the cashier and its second key remains with the Branch Manager. To open and close the cash safe, both keys have to be applied together; only then can the safe open or close. Page No. 131 of the cash book is in the handwriting of Chandrashekhar Singh, which pertains to the date 01-10-2002. At the end of this page, there is the signature of the then Branch Manager Ram Lakhan Giri. Page 132 pertains to the date 03-10-2002. This page is in the handwriting and signature of the then Branch Manager Ram Lakhan Giri. On page 133, the verification remarks are in the handwriting and signature of Managing Director Chandrashekhar Kapar. Page No. 133 of the Cash Book is in the handwriting and signature of Ram Lakhan Giri, upon which the verification noting is in the handwriting of Managing Director Chandrashekhar Kapar, in which he found Rs. 76,493/- less in the vault compared to the Cash Book. Pages 131, 132, and 133 of the Cash Book are marked as Exhibit-1, 1/1, and 1/2 respectively. He has submitted a written report to the Police Station In-charge, Kamdara, to register an F.I.R. The written report is marked as Exhibit-2.

In his cross-examination, he has deposed that an iron almirah of Godrej Company is installed in the bank to keep cash. This cash safe has two keys. Key No. 1 remains with the Cashier and Key No. 2

remains with the Manager. At the time of closing the safe, Key No. 1 is applied and turned first, and after that, Key No. 2 is applied and turned, which locks the cash safe completely. At the time of opening, the reverse process is performed by turning Key No. 2 first, and after that, Key No. 1 is applied to open the safe, and only then does the almirah open. Key No. 2 is for the double lock. If Key No. 2 has not been used while closing, the almirah will open with Key No. 1 alone. In the cash safe, both keys are always used. Since Chandrashekhar Singh was not present in the branch on 1-10-02, therefore on that day, complete charge was not handed over to him. He can't say as to who had closed the cash book on 01.10.2002. This witness has further deposed that police had not recorded his statement. When the cashier remains absent, key remains with the manager and in his absence, manager has to check cash and cashbook. He has further stated that "**चाभी नं -**1 **जब तक लिखित रूप में मैनेजर के पास नहीं होगा तब तक मिलान संभव नहीं है। मैंने सिर्फ केशियर के विरुद्ध प्राथमिकी प्रबंध निदेशक के आदेशानुसार दायर किया था मुझे इसकी जानकारी नहीं है कि मैनेजर रामलखन गिरी के द्वारा दी गई लिखित सुचना के बाद ही कैशबुक और कैश की जाँच हुई और जाँच के पश्चात प्राथमिकी दर्ज करने की अनुसंशा की गई।**"

PW-3 Eren Ekka was the then Assistant Manager at Central Co-operative Bank, Simdega Branch as well as Enquiry Officer. She has stated that there was a telephonic order from the Managing Director directing her to go to the Kamdara Co-operative Bank, to verify the cash balance in the bank vault, and come Gumla for monthly meeting. In light of the said telephonic order, she, along with

the then Branch Manager Bachhu Prasad Singh and Chandan Mahto, went to the Kamdara Co-operative Bank for verification and inspection. On 03-10-02, they verified the Cash Book and physical cash chest at the Kamdara Cooperative Bank. This verification was conducted in the presence of Branch Manager Ram Lakhan Giri and Cashier Chandrashekhar Singh. During the verification, they found a deficit of Rs 60,895.24/- in the cash chest compared to the entries in the Cash Book. They prepared an inspection report of this verification. The inspection report has been marked as Exhibit-3. That inquiry report was submitted to the Managing Director, Co-operative Bank, Gumla

In her cross-examination, she has stated that when the deficit was found in the cash, cashier Chandrashekhar Singh showed a withdrawal slip in the name of Anjelus Kullu to explain the shortage. She has further deposed that the police did not record her any statement regarding this case. She has also stated that a sample signature was required to match the signature on Anjelus Kullu's withdrawal form, but the sample signature was not made available.

PW-4 Chandan Mahto has stated that in the year 2002, he was posted at the Kamdara Branch of the Gumla-Simdega Co-operative Bank. At that time, he was in Simdega Branch as the Branch Manager-in-charge. The then Managing Director Chandrashekhar Kapar instructed via telephone to conduct a physical verification of the Cash Book and cash safe at the Kamdara Branch. For this inspection, he, Bachhu Prasad Singh (the then Branch Manager, Simdega), and Smt. Eren Ekka (the then Assistant Manager, Tetai

Tanger) received the orders. They three individuals went to the Kamdara Branch on 03-10-2002 to verify the Cash Book and the physical cash. The verification of the Cash Book and cash safe was conducted in the presence of the then Branch Manager of Kamdara, Ram Lakhan Giri, and the then Cashier of Kamdara. During that inspection, they found that a withdrawal of one lakh rupees had been recorded on the date 01-10-2002 under the name of Anjelus Kullu. Regarding this, it was explained that the money which was short had been paid out to Anjelus Kullu. To verify the signature of Anjelus Kullu on the withdrawal form, we asked Chandrashekhar Singh for a sample signature but he did not provide it. Upon asking the Branch Manager, he stated that the sample signature form was in the custody of the cashier. During the verification, a shortage of Rs. 60,895.24/- was found between the cash book entries and the physical cash in the vault. They submitted a formal report regarding this matter to the Managing Director.

This witness has stated in his cross examination that at the time of the inspection, the both keys to the cash box were with Chandrashekhar Singh, and he brought out the money from the cash box inside the strongroom. The shortage was discovered only after the money brought out by him, which was physically counted.

PW-5 Dayanand Sharma has stated that on 05.10.2002, he was posted in the capacity of Manager at the Gumla Co-operative Bank and Bipin Bihari Mishra was the Branch Manager at the Co-operative Bank, Kamdara from 04.10.2002. Before 04.10.2002, the Branch Manager of the Kamdara branch was Ram Lakhan Giri. When

the cash accounts of the cashier, Chandrashekhar Singh, were audited in my presence, an embezzlement of approximately Rs. 76,000/- was detected. Upon conducting the audit on 03.10.2002, an embezzlement of Rs. 60,895/- was found. There are two keys to the bank's safe custody. One key was with Cashier Chandrashekhar Singh and the second key was with Branch Manager Ram Lakhan Giri. Without using both keys, the safe locker will not open. The money was withdrawn by using both keys.

In his cross-examination, he states that police did not interrogate him in connection with this case. He has further stated that the cash safe remains with the cashier, which requires Key No. 1, and the cash box opens with this key. Key No. 2 is used to secure and close the vault. While locking, Key No. 1 is applied first and then Key No. 2 is applied. This witness has also stated that after the cash shortage occurred, Chandrashekhar Singh fled from the bank.

PW-6 Sikandar Ram has also stated that at the time of the incident, he was working as a daily wage assistant in the Co-operative Bank, Kamdara. On 03.10.2002 at 10:30 A.M., three branch managers—Shri Bachhu Prasad Singh (Branch Manager, Simdega), Smt. Eren Ekka (Branch Manager, Tetai Tanger), and Chandan Mahto (Branch Manager, Gumla Headquarters) arrived at the branch. They took out the cash from the chest and checked it against the Cash Book. According to the Cash Book, a deficit of Rs. 60,895.24/- was found in the vault. Regarding this, the three branch managers prepared an inspection report, signed it, and submitted the report to the Managing Director of the Gumla-Simdega Central Co-operative Bank. On

04.10.2002, the Managing Director came to the Kamdara Branch. Ram Lakhan Giri was transferred, and Bipin Bihari Mishra joined the branch as the Manager. The Managing Director instructed Bipin Bihari Mishra to go to the Kamdara Police Station and register an F.I.R. Bipin Bihari Mishra came to the branch and physically verified the cash in front of the Managing Director, and he also found Rs. 60,895.15 less. At that time, an order was received to lodge an F.I.R. against Cashier Chandrashekhar Singh. The F.I.R. was accordingly registered. The Cashier maintains the Cash Book, balances the cash with the Branch Manager, and both sign the Cash Book. The accounts are tallied every day after 2:00 PM.

This witness has stated in his cross-examination that he cannot specify on whose application the Managing Director constituted the inspection committee. The Managing Director did not provide a copy of the complaint application to the committee. The banking public work of the Co-operative Bank runs until 2:00 P.M.

17. I have given anxious consideration to overall attending fact and circumstances of the case. It appears that on 03.10.2002, as per enquiry report submitted by the verification team, there was defalcation of Rs. 60,895.24/- in the Central Co-operative Bank, Kamdara Branch. On verification of cash book and chester (locker), both did not match. On the date of incident, Ram Lakhan Giri (present petitioner) was at the post of branch manager and Chandrashekhar Singh was cashier, who was sole person to handle the said activity.

18. It further appears that on the basis of aforesaid misappropriation and conduct of Chandrashekhar Singh, initially an F.I.R. was

instituted against Chandrashekhar Singh and during the trial, the Trial Court also convicted the present petitioner only on the ground that main locker/chester, was consisting of two keys and one of them was being handled by the petitioner Ram Lakhan Giri. In this aspect, the learned Trial Court has not taken into consideration the version of the witnesses, who have stated the process of running chester/locker for opening and closing. PW-2 Bipin Bihari Mishra has stated that "There are two keys to the bank's cash safe (vault). One key remains with the cashier and its second key remains with the Branch Manager. To open and close the cash safe, both keys have to be applied together; only then can the safe open or close." He further states that at the time of closing the safe, Key No. 1 is applied and turned first, and after that, Key No. 2 is applied and turned, which locks the cash safe completely. At the time of opening, the reverse process is performed by turning Key No. 2 first, and after that, Key No. 1 is applied to open the safe, and only then does the almirah open. Key No. 2 is for the double lock. If Key No. 2 has not been used while closing, the almirah will open with Key No. 1 alone. PW-5 has also stated that the cash safe (chester) remains with the cashier, which requires Key No. 1, and the cash box opens with this key. Key No. 2 is used to secure and close the vault. While locking, Key No. 1 is applied first and then Key No. 2 is applied. This witness has also stated that after the cash shortage occurred, Chandrashekhar Singh fled from the bank. It has also come in deposition of witness that when shortage of cash was found, cashier Chandrashekhar Singh also tried to mislead by saying withdrawal from one Anjelus Kullu and when he was asked for

signature of Anjelus Kullu for verification, he did not put before the inquiry team.

19. In view of the above discussion and reasons, I find that the learned Trial Court as well as the learned Appellate Court have committed serious error of law while convicting and sentencing the petitioner for the offence under Section 409 of the I.P.C., which is hereby set aside.

20. Accordingly, this Criminal Revision is **allowed.**

21. Pending I.A.(s), if any, also stands disposed of.

22. The petitioner is on bail. As such, he is discharged from the liability of bail bond and sureties are also discharged.

23. Let a copy of this order alongwith the trial court records be sent back immediately to the concerned Trial Court for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 05/10/2026
Rahul/NAFR
Uploaded on: 06/10/2026