

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.2211 of 2013

The State of Maharashtra.

.. Applicant.

Versus

Ramchandra Vithalrao Bandapalle
And Another.

.. Respondents.

Smt. R.K. Ladda, Additional Public Prosecutor, for
applicant.

Shri. V.A. Bagdiya, Advocate for respondent No.2.

CORAM: T.V. NALAWADE, J.

DATE : 30th JULY 2015

ORDER:

1) The application is filed for grant of leave to file appeal against the judgment and order of acquittal delivered in Special Case No.3/2006 by the learned Additional Sessions Judge Udgir (Special Judge appointed under the Prevention of Corruption Act, 1988). Heard learned Additional Public Prosecutor. Some hearing was given to the learned counsel appointed by accused Nos.1 and 2.

2) This Court has carefully gone through the evidence given against accused Nos.1 and 2. There is evidence of the nature that prior to approaching accused No.1 the complainant had approached accused No.2. Accused No.1 was working as Inspector of Weights and Measures at Udgir and accused No.2 was working as Assistant in the same office. The complainant was working as agent of repairing weights and measures. As per the prescribed procedure, after repairing of the measures he is expected to take the measures to the office of the accused No.1. After verification, stamping is done by the office and for each such measure the office was charging Rs.200/-. When the complainant approached accused No.2, the accused No.2 explained that in addition to the prescribed fee, amount of Rs.200/- per scale needs to be given as bribe amount. As the complainant was charging Rs.350/- per measure for repairing, he expressed that it was his only source of livelihood. But the accused No.2 insisted that the stamping will be done only if amount of Rs.200/- per scale is given. Then the complainant approached the ACB and trap was laid.

3) Before entering the cabin of the accused No.1, the complainant had talk with the accused No.2 and the accused No.2 directed the complainant to the cabin of accused No.1. In the presence of panch witness complainant tendered first the legal charges, amount of Rs.600/-. Receipt of that amount was prepared. Then in the presence of panch witness the accused No.1 demanded bribe amount of Rs.600/- as per the aforesaid settlement. Then tainted money was given by the complainant to the accused No.1. The complainant came out of the office and gave signal. During post trap panchanama anthracene powder was found on both hands of the accused No.1. Tainted money was recovered from the table of accused and it was with the amount of legal charges.

4) The trial Court has mentioned some so called inconsistencies and contradictions in the evidence which are not there in the record. When there was record of demand of the amount and demand was also made on the day of the trap, the trial Court has observed that there was no demand from the accused No.1. Though prior to

the date of the trap, there was no demand from accused No.1, the circumstance remains that the amount was settled and that is why the complainant was ready with the bribe amount of Rs.600/- and exactly the same amount was demanded by accused No.1 during trap. This circumstance is against the accused No.1. There is evidence that in the past the amount was demanded by accused No.2 directly from this complainant.

5) Thus, there is good arguable case in the appeal for the State. In view of aforesaid discussion, the application is allowed. Leave is granted. Appeal is admitted. Action under section 390 of the Code of Criminal Procedure to be taken.

Sd/-
(T.V. NALAWADE, J.)

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