

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1104 OF 2015

Dattatraya Gyanoba Shinde Vs. The State of Maharashtra.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.G.R.Syed, advocate for the petitioner.
Mr.S.G.Karlekar, A.P.P for the State.

**CORAM : S.V.GANGAPURWALA AND
V.K.JADHAV, JJ.**
Date : 10.12.2015.

PER COURT :

1. Heard.
2. The present petition is filed for quashing of FIR bearing No.3174/2015, registered with Gandhi Chowk Police Station, Latur, for offence punishable U/s 7 of the Prevention of Corruption Act, 1988.
3. Mr.Syed, learned counsel for the petitioner submits that in fact, there is no demand as laid down under the Prevention of Corruption Act. The demand of 3% of the bill was a legitimate demand as per the Government Resolution dated 10.7.2001. The trap is also not successful. Twice the authorities tried to lay down the trap. The learned counsel submits that the offence U/s 7 of the

Prevention of Corruption Act, is not made out. The complaint read as a whole, does not disclose commission of any offence.

4. Mr.Karlekar, learned A.P.P submits that there is a demand on the part of the applicant which if calculated comes to 2% of the bill amount. The said demand is not in tune with the Government Resolution dated 10.7.2001, as such the said demand is nothing but a gratification demanded by a Public Servant.

5. We have considered the submissions. Section 7 of the Prevention of Corruption Act, is applicable if a Public Servant accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification, whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act. In the present case the complainant had submitted the medical bill for reimbursement and the petitioner demanded 3% amount as per the complaint. The same appears to be on the basis of the Government Resolution dated 10.7.2001 and the Circular dated 12.12.2014 issued by the Civil Surgeon, Latur.

6. Moreover, the trap laid down is also not successful. The petitioner has not accepted the amount. Even in the trap, there is no demand which has come forward.

7. Considering the above, as there is no demand for any illegal gratification, the complaint does not sustain.

8. In light of the above, the FIR bearing Crime No.3174/2015, registered with Gandhi Chowk Police Station, Tq and District Latur, for offence punishable U/s 7 of the Prevention of Corruption Act, is quashed and set aside.

9. The Criminal Writ Petition is accordingly allowed. No costs.

(V . K . JADHAV , J .)

(S . V . GANGAPURWALA , J .)

Dt.10.12.2015.
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