

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5352 OF 2014

Smt. Babita Paraji Bhalekar **....Applicant.**

Versus

The State of Maharashtra & Ors. **....Respondents.**

Mr. V.D. Sapkal, Advocate for applicant.

Mr. B.L. Dhas, APP for respondents.

**CORAM : T.V. NALAWADE &
INDIRA JAIN, JJ.**

DATED : 5th May, 2015.

ORDER :

1. The application is filed for relief of quashing and setting aside the FIR bearing C.R. 3024 of 2014 registered in City Police Station, District Beed for the offences punishable under sections 7, 13 (1) (d) r/w 13 (1) (2) of the Prevention of Corruption Act, 1988. Both the sides are heard.

2. The crime is registered on the basis of report given by one Police Inspector of Anti Corruption Bureau ('ACB' for short). One Shubham Nikewade had approached ACB and he had complained that the present applicant, who was working in the office of District Superintendent of Police, Beed, was

demanding illegal gratification for issuing clearance certificate by police department. Shubham and his sister had applied to Maharashtra State Road Transport Corporation ('MSRTC' for short) for getting employment on the post of conductor. MSRTC had asked them to collect clearance certificate from police. Allegations are made that the application was given by Shubham to the office of present applicant on 26.6.2014 and on that day, applicant had demanded Rs.300/- per certificate and thus, the amount of Rs.600/- was demanded. As the demand was made as illegal gratification, he approached ACB and gave complaint.

3. After receipt of the complaint of Shubham, ACB office first arranged for ascertaining that there was really demand of illegal gratification. In the presence of witnesses, the applicant demanded aforesaid amount as illegal gratification on 27.06.2014. Then, usual procedure was followed and the trap was laid on 28.04.2014. During the trap, the demand was again made in the presence of independent witness by the applicant and the tainted money given by Shubham was accepted by the applicant. This amount was recovered from the table which was situated on the backside of the applicant. On examination, it was found that there was anthrasene powder on the fingers of both the hands of the applicant. No record of receipt was

prepared by the present applicant in respect of this amount.

4. This Court has gone through the record like complaint given by Police Inspector and the panchnama prepared in presence of independent witnesses. The learned counsel for applicant submitted that as per the procedure, this office was expected to take Rs.300/- for each police clearance certificate and so, the aforesaid amount was demanded and accepted for two clearance certificates. The learned counsel produced some record showing that power was given to the office to collect the amount in cash and this was done to see that no inconvenience is caused to the persons, who come to the office. In the past, this amount was required to be deposited in treasury by the Challan. The learned counsel also showed to this Court one order made by P.I. dated 26.06.2014 to show that for such cases amount of Rs.300/- needs to be collected.

5. There are the statements and affidavits of the persons like District Superintendent of Police, Beed, showing that there was a direction to take Rs.200/- per certificate only and issue receipt in respect of the amount collected. Record further shows that present applicant was not posted in that section. The learned counsel for applicant submitted that she was assisting

the employee, who was already posted there as per the directions of the superior officer. It will be interesting to see as to whether the P.I. had really issued such order and record of this order was created in the office of Superintendent of Police when there is affidavit of aforesaid nature of Superintendent of Police. Appropriate action can be taken against that P.I. if he has tried to help the present applicant by creating such record. The learned counsel for the applicant submitted that one Shivaji Sonawane, P.I. of City Police Station, Beed has issued the order which is to the effect that there was confusion about the collection of money and in some districts the amount of Rs.100/- was collected, in some districts amount of Rs.200/- was collected and in some districts amount of Rs.300/- was collected. However, this record does not help the present applicant as there is the record like affidavit of Superintendent of Police and there is the record of copies of receipts prepared in the same office. In the present case, the amount was accepted on 28.04.2014 and the demand was made on 26.06.2014. There are receipts of this office of 24.06.2014 and also of 26.06.2014 showing that the amount of Rs.200/- was collected by this office for such clearance certificate. There are receipts of 30.6.2014 also showing that amount of Rs.200/- only was collected.

6. The aforesaid record is sufficient to make out prima facie case against the applicant of demand of illegal gratification and acceptance of amount of gratification which was in respect of the discharge of her official duty. In such a case, presumption under section 20 of P.C. Act is available and the burden is on the applicant to show that it was not illegal gratification. The aforesaid defence of the applicant has no support and this defence needs to be proved in view of the provisions of the P.C. Act during the trial. This Court holds that it is not a fit case to grant relief claimed.

7. In the result, the application stands dismissed.

8. The learned counsel for applicant seeks for continuation of interim relief for four weeks. It is refused.

[INDIRA JAIN, J.]

[T.V. NALAWADE, J.]

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