

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

Criminal Application No.6168 of 2013

The State of Maharashtra. **.. Applicant.**

Versus

Dhulaji Namdeo Bhise. **.. Respondent.**

Shri. S.A. Ambad, Additional Public Prosecutor, for applicant.

Shri. R.R. Karpe, Advocate, for respondent.

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.5/2011 by the learned Additional Sessions Judge (Special Judge) Sangamner, District Ahmednagar. Heard learned Additional Public Prosecutor. Some hearing was given to the learned counsel for the accused also.

2) The accused is acquitted of the offences punishable under sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988. He was Police Head Constable and at the relevant time he was attached to Sangamner Taluka Police Station. It is the case of the complainant that for his sister he had given one complaint application in the police station against husband and relatives of the husband of his sister on 29-9-2010. It is his case that the accused refused to register the crime and take further action unless his demand of Rs.5000/- as bribe is met with. After negotiations, he agreed to accept Rs.3000/-. According to the complainant an amount of Rs.1800/- was given by him and the remaining amount was to be given on the date of the trap i.e. on 19-10-2010.

3) There is evidence given by the prosecution to show that when the complainant approached the ACB office, the ACB office confirmed that there was illegal demand and accordingly panchanama was prepared. The learned Judge of the trial Court has not considered this circumstance. After confirming that accused was making demand trap was laid. During trap, in the presence of

panch witnesses accused recorded the First Information Report, gave copy of the FIR on 19-10-2010 and when he was preparing the FIR he made demand of Rs.1200/- from the complainant. In the presence of panch witness bribe amount was accepted by the accused and it was kept in the pant pocket. Signal was given and then trap team came forward and post trap panchanama was prepared. The tainted money was recovered from the pant pocket of the accused. The defence of the accused is that the amount was forcibly thrust into the pocket of his pant. The documents like copy of the original complaint given on 29-9-2010, copy of FIR dated 19-10-2010 were collected by the ACB during post trap panchanama.

4) The complainant stuck to his version given before police. The trial Court has observed that the PW 4, sister's version is little bit inconsistent and she was not saying that she was present when the initial demand was made. Specific amount was brought by the complainant and it was handed over when the demand was made. All these circumstances are sufficient to show that there is good arguable case to the State in the appeal.

5) In the result, 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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