

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.516 OF 2015

The State of Maharashtra	..Appellant
<i>Versus</i>	
Dattatraya Dnyandev Patil	..Respondent

....
Mr. A. R. Patil, APP, for the Appellant – State.
None for the Respondent.

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CORAM : A. R. JOSHI, J.

DATE : 3rd JULY, 2015

P.C.

1. Heard learned APP for the appellant for admission of this appeal challenging the acquittal of the respondent in the matter of offence punishable under Section 7, 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988. Leave is already granted vide order dated 21st April, 2015 (Coram: Abhay M. Thipsay,J.).

2. The case of the prosecution is very peculiar in nature inasmuch PW-4 Police Officer then Dy.S.P. at Kolhapur received various complaints regarding demand of bribe by the present respondent, then Traffic Constable. However, nobody came forward for lodging complaint so as to initiate the trap and

arrest the respondent in a particular case. As such, police officer decided to lay a trap of his own by calling two panch witnesses and then asking one driver of a motor vehicle who happened to be stationed near one temple of deity Jotiba. Said another driver of the tempo is PW-1. He was asked to accompany the raiding party members along with panchas and accordingly the police party and the vehicles reached Kolhapur and the vehicles were intercepted by the present respondent and he had a talk with driver of the vehicle, who is PW-1, and after inspection of the documents of the vehicle apparently demand of Rs.1000/- was made. That time according to the case of the prosecution one panch PW-2 was also present. The demand was subsequently lowered to Rs.700/-, but, ultimately Rs.300/- were given to the respondent. According to the case of prosecution, Rs.300/- were earlier given to PW-1 the driver of the vehicle by panch PW-2, to be paid to the respondent when the respondent would stop the vehicle of the said driver PW-1. It is also the factual position that said currency notes with 3 GN series notes of Rs.100/- each were not smeared with anthracene powder so as to ascertain subsequently that the respondent / accused had touched the said notes and taken them in his

custody. In fact this was the vital part of the anti-corruption raid which apart from the substantive evidence of the panch and the complainant or the giver of the bribe, substantiate the receipt of the bribe amount by the accused as the anthracene powder gives glow under ultraviolet light. However, in the present matter this procedure has not been adopted much less by taking any complaint of a genuine complainant. In fact in this matter the complainant PW-1 was taken on the way for proceeding towards Kolhapur by the raiding party members. So far as panch PW-2 is concerned in his cross-examination he has admitted that for six to seven years prior to the present incident he had acted as a panch for Anti-Corruption Bureau. This also weighed much with the trial Court apart from the main defect in the case of prosecution as to no proper procedure adopted of using anthracene powder and no actual demand mentioned by PW-1 prior to he being taken to the spot near the respondent / accused. The trial Court came to the conclusion of failure of the prosecution to establish the charge of demand and acceptance of bribe amount by the respondent and as such acquitted him of the offences charged.

3. Considering the substantive evidence of prosecution witnesses and mainly that of PW-1, PW-2 and PW-4, in the opinion of this Court there is nothing to allow the State to reagitate the matter so as to interfere with the judgment and order of acquittal. Hence present appeal is accordingly dismissed and disposed of.

(A. R. JOSHI, J.)

Deshmane (PS)