

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.20 OF 2015

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

SURESH KACHARU PAWAR)...RESPONDENT

Mr.Deepak Thakre, APP for the Applicant – State.

Mr.Rishi Bhuta, Advocate for the Respondent.

CORAM : ABHAY M. THIPSAY, J.

DATE : 23rd MARCH 2015.

P.C. :

1 The respondent was prosecuted on the allegation that he had committed offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act. The learned Special Judge, Nashik, after holding a trial found him not guilty and passed an order of acquittal. The State of Maharashtra is aggrieved by the said order of acquittal and is, therefore, by the present application, seeking leave to appeal therefrom.

2 I have heard Mr.Deepak Thakre, the learned APP for the State, in support of the application. I have been taken through the application and the copy of the impugned judgment that is annexed thereto. I have also heard Mr.Rishi Bhuta, the learned counsel for the respondent.

3 The respondent, at the material time, was working as a peon in the Municipal Corporation of Nashik. The case came to be registered on the basis of a complaint made by one Umesh Dongre with the Anti Corruption Bureau. Dongre wanted reimbursement of the medical expenses made by him and the documents for such reimbursement were submitted to one Govind Chaudhari, working as a clerk in the office of the Municipal Corporation, Nashik. Mr.Govind Chaudhari had asked the documents to be delivered to the respondent, when the respondent allegedly made a demand of Rs.2,000/-, as and by way of illegal gratification, for early sanction of the reimbursment proposal.

4 A perusal of the judgment sought to be appealed from shows that the learned Special Judge doubted the story of the initial demand. According to the *defacto* complainant, the initial demand was made on 2nd December 2005, but the evidence indicated that the proposal for reimbursement was submitted on 3rd December 2005. The learned Judge, therefore, doubted whether the respondent could have demanded illegal gratification even before the documents for the reimbursement of the medical expenses were submitted in the office of the Municipal Corporation.

5 The second demand of illegal gratification was allegedly made by the respondent on 10th December 2005 in the office of the Municipal Corporation. However, it was revealed that 10th December 2005 was a public holiday and the office was closed on that day. Even 11th December 2005 was a public holiday and the office was closed on that day also. The learned Judge, therefore, doubted the theory of the second demand also.

6 The clerk Mr.Govind Chaudhari, who was supposed to deal with the proposals for reimbursement of medical expenses, has not been examined as a witness. It was not the case of the *defacto* complainant that the amount of illegal gratification was being demanded by the accused at the instance of the said Govind Chaudhari, or with his connivance.

7 The learned Judge also observed that there was no proper verification of the initial demand.

8 The reasoning of the learned Judge does not seem to be suffering from any error or illegality. The doubt felt by the learned Judge about the truth of the prosecution case cannot be said to be unreasonable. In any case, the view of the matter, as taken by the learned Special Judge, is a '*possible view*.'

9 Under these circumstances, it would be futile to grant leave to appeal.

10 Leave refused.

11 The application is rejected.

(ABHAY M. THIPSAY, J.)