

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION (ALS) NO.21 OF 2015

The State of Maharashtra	..Applicant
V/s.	
Sayajirao Laxman Howal	.. Respondent

Mrs.Anamika Malhotra, APP for applicant-State.
Mr.V.V. Purwant, for respondent.

CORAM : A. R. JOSHI, J.
DATE : 11th SEPTEMBER, 2015.

P.C.

1. Heard learned APP for the State on this application for leave to file appeal challenging the acquittal of the respondent in the matter of offences punishable under sections 7,13(1)(d) read with section 13(2) of Prevention of Corruption Act, 1988. Also heard learned counsel for the respondent-acquitted accused.

2. The case of the prosecution is that there was a demand of bribe initially for Rs.25,000/- not to lodge a case against the complainant and the demand was reduced to Rs.15,000/-. As the complainant was not ready to pay the

amount he approached the Anti Corruption Bureau and trap was laid. During the trap allegedly the amount was demanded by the respondent. It was the amount of Rs.5,000/- which was the trap money. During the trap panchnamma said amount was found in the back side pocket of the respondent-accused. During the trial three prosecution witnesses are examined i.e. P.W.No.1 complainant, P.W.No.2 Panch and P.W.No.3 the Investigating Officer. Apparently the Sanctioning Authority is not examined.

3. What weighed with the trial Court, is the variance in the substantive evidence of the P.W.No.1 and P.W.No.2 inasmuch as the actual place of the trap whether 'Satguru Hotel' or 'Gurukrupa Hotel'. Also what weighed with the trial Court was the place of sitting of the complainant and pancha along with the respondent-accused in the hotel. Also the Court has discussed the substantive evidence of the complainant P.W.No.1 and came to the conclusion that admittedly in the hotel the complainant asked the respondent-accused to lower the amount of bribe and also made a reference to some another

officer. By mentioning this evidence of P.W.No.1 the trial Court entertained a doubt whether there was actual demand and acceptance by the respondent-accused for himself. Also the Court came to the conclusion that the initial demand of the bribe is not established by the prosecution. Also a doubt is entertained by the trial Court on the factual position that the complainant was rather distant relative of the DYSP, at whose agricultural field in fact the complaint was noted down on laptop and registered after calling panch witnesses. Considering the over all effect of the substantive evidence the trial Court came to the conclusion as to failure of the prosecution to established the case and acquitted the respondent-accused.

4. Considering the material and the substantive evidence of only three witnesses P.W.No.1,2 and 3 and mainly considering the discrepancy in the substantive evidence of P.W.No.1 and P.W.No.2, in the opinion of this Court it cannot be said that impugned judgment and order is of such a pervert nature so as to be interfered within the appeal by allowing the

State to re-agitate the matter. In the result the present application for leave to file appeal is dismissed and disposed of.

(A. R. JOSHI, J)

CERTIFICATE

Certified to be true and correct copy of the original
signed Judgment/order.