

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

CRIMINAL APPLICATION (ALS) NO.23 OF 2015

The State of Maharashtra ..Applicant
V/s.
Shri.Madan R. Solse and Anr. .. Respondents

Mrs.P.P. Bhosale, APP for Applicant-State.
Mr.Jayant Bardeskar, for respondent nos.1 & 2.

**CORAM : A. R. JOSHI, J.
DATE : 03rd SEPTEMBER, 2015.**

P.C.

1. Heard rival submissions on this application preferred by the State for leave to file appeal challenging both the respondents-original accused. Both the respondents are acquitted of the offences punishable under sections 7, 13(1)(d) read with section 13(2) of Prevention of Corruption Act, 1988.

2. It is a case of prosecution that police officers from Ambernath Police Station raided the shop of the scrap merchant and there was some talk regarding demand of Rs.1 lakh to hush up the matter and not to arrest the scrap merchant. The amount was reduced to Rs.30,000/-. Thereafter

it so happened that the scrap merchant was taken to the shop and that time again demand was made. Then shop merchant arranged for cash of Rs.5,000/- from one of his acquaintance and out of that amount he paid Rs.4,000/- mentioning that the remaining amount of Rs.26,000/- would be paid subsequently. Thereafter, scrap merchant indicated that he will give only Rs.6,000/- instead of Rs.26,000/- and that amount was infact arranged as a trap money and trap was laid.

3. What weighed with the trial Court was some answer given by P.W.No.1 sanctioning authority during the cross-examination to that effect that prior to said P.W.No.1 giving sanction, there was another sanction order passed by DCP, one Mr.Chavan. However, it is a factual position that apart from this answer in the cross-examination there was nothing on record that said Mr.Chavan had infact granted the sanction and it was not accepted by the investigating agency and it asked for another sanction. In the absence of any such material, it must be said that this reasoning given by the trial Court as to not accepting the sanction given by P.W.No.1 needs

consideration.

4. So far as the demand during the time of the trap, what influenced the trial Court was the answer given by the P.W.No.3 panch witness during his cross-examination. However, the entire evidence of P.W.No.3 is required to be construed. More so when in examination-in-chief in para no.5 said P.W.No.3 had specifically stated that there was a demand on the spot by accused no.1 and in presence of accused no.2. Even this point is also require consideration and as such in the considered view of this Court this is a case in which the present application for leave to file appeal is required to be allowed and the matter shall be dealt in detailed at the appropriate stage while deciding the appeal. In the result the present application for leave to file appeal is allowed.

5. Appeal is admitted.

6. Instead of issuance of process under section 390 of Cr.P.C., both the respondents are directed to remain present

before the trial Court on 30th September 2015. With further direction to the trial Court to release them on bail on the executing PR bond in a sum of Rs.5,000/- each.

(A. R. JOSHI, J)

CERTIFICATE

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