

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATAION [ALS] NO.32 OF 2015

The State of Maharashtra	..Applicant
<i>Versus</i>	
Dilip Narayan Patekar	..Respondent

....
Mrs. P.P. Bhosale, APP, for the Applicant – State.
Mr. Harshad Eknathrao Palwe, for the Respondent.
....

CORAM : A. R. JOSHI, J.

DATE : 12th AUGUST, 2015

P.C.

1. Heard learned APP for the State and also heard learned Counsel for the respondent on this application for leave to file appeal challenging the acquittal of the respondent in the matter of offence punishable under Section 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.
2. The respondent is acquitted in Special ACB Case No.3 of 2010 by the Additional Sessions Judge, Raigad at Alibag and Special Judge vide order dated 31.12.2014. Apparently, case of the complainant is that bribe amount of Rs.10,000/- was demanded and it was subsequently reduced to Rs.3500/- by the

present respondent / accused for changing the lay-out of the land purchased by the complainant. By that time of the demand, in fact the NA permission for the conversion of the agricultural land to N.A. was already over. In spite of this, the trial Court misdirected itself and framed the issue No.1 to the effect that allegedly bribe amount was taken by the respondent / accused for converting the land into NA. In fact this aspect needs consideration in the appeal. Secondly the trial Court was influenced by some variance in the substantive evidence of PW-1 complainant and PW-2 Pancha and came to the conclusion that the prosecution has failed to establish the case. Even this variance in their evidence whether goes to the root of the matter, is required to be considered at the time of final adjudication of the appeal. Thirdly though it is argued on behalf of the respondent that the complaint do not mention so many things which were told before the Court by the complainant, needless to mention that the complaint may not contain each and every aspect or factual position. In fact it is the initiation of taking the action against the wrong doer. In fact this aspect also needs consideration.

3. In view of the above, in the opinion of this Court, there is a scope for the State to reagitate the matter and to re-apprise the material brought before the trial Court. In that view of the matter, the present application for leave to file appeal is allowed. Application be treated as appeal memo.

4. The appeal challenging the acquittal of the respondent is admitted.

5. Instead of issuing process under Section 390 of Cr.P.C., the respondent / accused is directed to appear before the trial Court with directions to the trial Court to release him on bail in the sum of Rs.1000/- with one surety for the like amount. The respondent / accused to appear before the trial Court on 14.9.2015. Call for R & P.

(A. R. JOSHI, J.)

Deshmane (PS)