

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

CRIMINAL APPLICATION NO. 350 OF 2014

Bhima Bhimanna Sirpor

... Applicant.

V/s.

The State of Maharashtra & Anr.

... Respondents.

Mr. V.V.Purwant, Advocate for the Applicant.

Mr. V. B. Konde-Deshmukh, APP for Respondent No.1-State.

CORAM : M.L.TAHALIYANI,J.

DATE : 27 JANUARY, 2015

P.C. :

1 Heard the learned counsel Mr. Purwant for the Applicant and learned additional public prosecutor for the State. None for the CBI.

2 The Applicant is chargesheeted by the CBI (Central Bureau of Investigation) for the offences punishable under section 120(B) of Indian Penal Code and sections 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act. The case of the CBI against the applicant and others is that they had entered into a conspiracy to demand and accept the bribe of Rs.25,000/- from the complainant so that the complainant could run his illegal business of travel agency and could

continue to book tickets for others / passengers. One of the accused had also demanded periodical payment of Rs.2000/- from the complainant. Therefore, the complainant approached the office of the CBI and lodged a report.

3 A trap was laid by the CBI for arrest of the alleged accused. All the accused had taken the complainant to the office of the Applicant. Accused no.2-Santosh Mani and the complainant and also a shadow witness had entered the office of the applicant. The applicant had directed the complainant to hand over money to accused no.2-Santosh Mani. The money was accepted by accused no.2-Santosh Mani. After the predetermined signal received by the officer of the CBI, a raid was carried out in which accused no.2-Santosh Mani was apprehended by the CBI.

4 The question which has been arisen for determination in this application is as to whether on the basis of the material collected by the CBI, the applicant could be prosecuted for the offences punishable under section 120(B) of IPC and section 13(2) r/w section 13(1)(d) of the Prevention of Corruption Act.

5 Learned counsel Mr. Purwant for the Applicant has submitted that the prosecution against the applicant is based only on the statement of the complainant and the shadow

witness. It was contended that the applicant had never demanded bribe from the complainant and there is no material on record to show that the applicant had earlier demanded money and that the amount was handed over to the accused no.2 pursuant to the demand made by the applicant and others.

6 No doubt there is no such material in the chargesheet which might indicate that the applicant had also demanded money from the complainant. The case of the CBI is that the applicant and other RPF officers of Pune Railway Station had decided to take bribe from the complainant and to share the booty. In fact in the case of conspiracy, it is not necessary that all the conspirators should have made a demand. A demand could have been made by one of them but all the members to the conspiracy can be prosecuted with the help of section 120(B) of the Indian Penal Code.

7 In the present case also, though it is admitted that the applicant had not directly demanded the money from the complainant, but the fact remains that there are statements of two witnesses who had disclosed to the investigating officer that the amount was handed over to accused no. 2 on the instructions of the applicant. In my opinion, this circumstance is sufficient to frame the charge against the applicant for the offences punishable under section 120(B) of IPC r/w section

13(2) r/w 13(1)(d) of the Prevention of Corruption Act. Thus, I do not find any infirmity in the order of the learned Special Judge (CBI Cases), Pune.

8 The Criminal Application stands dismissed. Interim order, if any, stands vacated.

9 The learned Special Judge shall not be influenced by the observations made by this court in respect of the evidence supporting conspiracy.

(JUDGE)

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