

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 61 OF 2014**

State of Maharashtra .. Applicant
Versus
Dhanraj Ramchandra Phulsunge .. Respondent

Ms. Anamika Malhotra, APP for State.
Mr. Niranjana Mundargi, Advocate for Respondent.

CORAM : ABHAY M. THIPSAY, J.

DATED : 6th JANUARY, 2015.

P.C. :

1. By this application, the State of Maharashtra is seeking leave to appeal against the judgment and order of acquittal passed by the learned Special Judge under the Prevention of Corruption Act. The respondent was the accused in the said case.

2. I heard the learned APP. I have gone through the application and the impugned judgment, a copy of which is annexed to the application. I have also heard the learned Counsel for the Respondent who appears pursuant to the notice issued by this Court. Though time was taken by the learned APP for placing the notes of evidence, no such notes have been placed on record till today. Under the circumstances, the application for leave to appeal is heard without the aid or assistance of such notes.

3. The case was only in respect of an offence punishable under Section 7 of the Prevention of Corruption act. In other words, the case was in respect of only the demand of bribe allegedly made by the Respondent and it was not the case of

prosecution that any money was actually obtained or taken by the Respondent.

4. The impugned judgment shows that there were two reasons which led to the acquittal of respondent. The first was that the case of the prosecution was that money was demanded by the respondent from the de-facto complainant for reinstating him in the service. The learned Trial Judge observed in this context, that the evidence indicated that the de-facto complainant was well aware that the respondent could not have reinstated him in service.

5. The other reason which weighed with the learned Trial Judge is that some tape recorded conversation that was produced by the prosecution, did not support the theory of the respondent having made any demand of illegal gratification. It was also observed by the learned Judge that the fact of having recorded the conversation was not mentioned by the de-facto complainant in the complaint.

6. Considering these aspects, the learned Trial Judge expressed a doubt about the truth of the prosecution and extended the benefit of such doubt to the respondent.

7. The view of the matter as taken by the Trial Court is a possible view. It is well settled that in such cases, grant of leave to appeal would be futile.

8. Leave refused.

9. Application rejected.

(ABHAY M.THIPSAY, J)