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

CRIMINAL APPLICATION NO. 203 OF 2015

[For leave to file appeal (Private)]

IN

CRIMINAL APPLICATION NO. OF 2014

Central Bureau of Investigation

..Applicant

-Versus-

Pascal John Almeida & Ors.

..Respondents

.....

Mr. H. s. Venegaonkar for the Applicant.

Mr. Kunal Kamble for the Respondent Nos.1 and 2.

Mr. Amarendra Mishra for the Respondent No.3.

Mrs. M. R. Tidke, APP, for the Respondent-State.

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CORAM: ABHAY M. THIPSAY, J.

DATE :- 27th APRIL, 2015.

PC.:

1] I have heard Mr. Venegaonkar, the learned counsel, for the applicant-CBI, in support of the applicant. I have heard the learned counsel for the respondents. With the assistance of the learned counsel, I have gone through the impugned judgment and other annexures to the application carefully.

2] In brief, the case of the prosecution was that the

respondent No.1 who was a Senior Manager in export department, overseas branch of Bank of Baroda, Mumbai and the respondent No.2 who was serving as a Manager in the same branch of the same bank had extended various financial facilities to the respondent No.3 who was running his business in the name and style of M/s. Kishore Footwear. That, the respondents hatched a criminal conspiracy to cause wrongful loss to the Bank of Baroda and wrongful gain to the respondent No.3; and, for that purpose, the respondent Nos.1 and 2 abused their official position and assisted the respondent No.3 to obtain the various financial facilities from the Bank. That, the respondent No.3 had prepared false export orders in the name of foreign companies and by using those false/fake orders obtained facilities in the nature of packing credit and purchase of foreign bills. That, the respondent Nos.1 and 2 suppressed the fact that forged export orders were submitted by the respondent No.3.

3] The learned Special Judge came to the conclusion that the charges against the respondents had not been proved. In

coming to this conclusion, by appreciating the evidence of the prosecution witnesses, the learned Special Judge does not seem to have committed any error or illegality. My attention has been drawn to the relevant parts of the impugned judgment but in the view that I am taking, it is not necessary to make a deeper analysis and discussion of the evidence that was adduced during the trial. It is because there was a manifest defect in the prosecution that was launched.

4] It has been pointed out that initially the Bank of Baroda had refused to grant sanction to prosecute the respondent Nos.1 and 2. It was, however, subsequently granted. It is submitted that this change in view took place without there being any additional material before the sanctioning authority.

5] The learned judge has observed, in para 67 of the impugned judgment, that once it was established that initially the Bank of Baroda had refused sanction to prosecute the respondent Nos.1 and 2, it was necessary for the prosecution to have

established what was the additional material produced before the sanctioning authority when later, sanction was granted. The learned judge observed that there was no evidence to show that any fresh or further material was collected by the Investigating Officer after the sanction was once refused.

6] I have carefully considered the matter.

7] Apart from the validity of the sanction to prosecute there are other factors which need to be taken into consideration while deciding the question of grant of Leave. The alleged offences were committed in the year 1993-94. The trial drag on for a period of more than 20 years. The judgment of acquittal was delivered by the learned special judge on 2nd January, 2014. Even the application for leave to file appeal therefrom was not filed in time. How the sanction which was refused earlier, came to be granted subsequently, though there was no additional material before the sanctioning authority, was not clear. There is no satisfactory explanation in that regard even today.

8] In any case, the view of the matter, as taken by the special Judge, is certainly a possible view of the matter. In these circumstances, it would be futile to grant leave to appeal.

9] Leave refused.

10] Application is rejected.

11] It, however, be numbered.

(ABHAY M. THIPSAY, J.)