

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

CRIMINAL WRIT PETITION NO. 2575 OF 2015

Shailesh Shivdas Meshram	... Petitioner
V/s.	
State of Maharashtra	... Respondent

Mr. Rajiv Patil a/w. Mr. Vishal Laxman Kolekar for the
Petitioner.

Mr. A.S. Shitole, A.P.P. for the State.

CORAM : A. V. NIRGUDE, J.

DATE : 8th DECEMBER, 2015.

P.C. :

1. This Petition challenges order dated 29.04.2015 refusing to discharge petitioner-accused No.1 from Anti Corruption Bureau Special Case No.12 of 2014. The learned Judge rejected the plea of the petitioner-accused that 'there is not sufficient ground for proceeding against' him. The fact leading to this litigation in short can be stated as under :-

2. The petitioner is working as Deputy Regional Transport Officer at Andheri. The prosecution case is as under:- The complainant wanted two "special registration numbers" for his two vehicles which were proposed to be acquired by him and his friend. Special numbers were allotted

if they are available albeit on charging certain fee. It is the case of the complainant that it was the petitioner who was authorized to allot special numbers after completing prescribed procedure. On 18.10.2011, he met the petitioner at his office and requested him to allot him special numbers. To this, according to the complainant, the petitioner demanded bribe. Hearing this, the complainant approached Anti Corruption Bureau on 20.10.2011 and lodged his complaint. The Anti Corruption Bureau started taking steps for catching the culprit while demanding and accepting the bribe.

3. The first incident thereafter took place on 20.10.2011. The Anti Corruption Bureau placed a voice recorder on the person of the complainant and asked him to go and have conversation with the petitioner in presence of shadow panch. The complainant then approached the petitioner in his cabin. They had a conversation which was recorded. Unfortunately while this conversation was going on, the shadow panch was not present. Apparently he could not enter into the cabin. The transcript of the conversation is available on record. It is in Marathi language and I could read and understand it easily. The transcription indicates that the petitioner had demanded Rs.2,000/- per number. But the transcription does not clarify as to whether the demand was bribe or official fee. Having regard to the 'negotiating' nature of the conversation, the demand could be bribe.

4. On 20.10.2011, the complainant's request for special numbers was fulfilled and orders were passed allotting him special numbers. It is nobody's case that on that day any illegal gratification was delivered either to the petitioner or to the other accused who is said to be petitioner's agent for accepting bribes.

5. Thereafter, the complainant and Anti Corruption Bureau tried to trap Kasam who was alleged agent of the petitioner for accepting bribes. On 21.10.2011 and 25.10.2011 traps were laid but nothing transpired between the complainant and Kasam though they could meet.

6. On 03.11.2011 again putting voice recorder under his garments the complainant approached Kasam for delivery of the bribe. This time he delivered the amount and Kasam was immediately apprehended red handed. Unfortunately, the voice recording transcription of this event does not indicate that Kasam accepted this amount for and on behalf of the petitioner. Unfortunately the event of delivery of the amount took place only between the accused Kasam and the complainant. The shadow panch was not around. There is no statement of shadow panch on record to indicate that he was personally present when the conversation between the complainant and the accused Kasam took place and Kasam accepted the amount. So there is no corroboration for this

incident coming from the shadow panch. The corroboration is neither available from the recorded conversation. So assuming the demand was made, there is no corroboration for acceptance of gratification. Unless demand and acceptance of illegal gratification is shown on record, there is no point in proceeding with the case against the petitioner.

7. The learned A.P.P. also took me through statements of various other witnesses. One witness Mahadik is a clerk working in R.T.O. Office who stated in his statement that on 20.10.2011 while he was present in the cabin of the petitioner, the complainant had approached the petitioner and they had talk about “special numbers” and certain “money” to be given. But this witness did not state that the conversation between the complainant and the petitioner was in respect of bribe. Similar is the statement of witness Kambli, who is also an employee of R.T.O. These two witnesses do not take the prosecution case further.

8. The Petition is allowed. The petitioner is discharged.

(A.V. NIRGUDE, J.)

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