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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 68 of 2015

The State of Maharashtra
Versus
Baburao Ganpat Tilekar

..Applicant.
..Respondent.

Mrs Anamika Malhotra, APP for the State.
Mr Akhil Kurade a/with Sandeep S.Salunke for the respondent.

CORAM : A.R.JOSHI,J
DATE : 10th September, 2015

P.C. :

- 1) Heard the learned counsel for the respondent today as on the earlier date he sought time to produce some authority on the point of sanction to prosecute under the the Prevention of Corruption Act, 1988.
- 2) On the earlier date i.e. on 8th September, 2015 arguments of rival parties were heard at length on this application for leave to file appeal preferred by the State challenging the acquittal of the respondent in the matter of offences punishable under sections 7 and 13(1) (d) read with section 13 (2) of the Prevention of Corruption Act, 1988. Today one authority is cited before the Court which is **1980 Mh.L.J. 445 (Bhaurao Marotrao Manekar Vs. State of Maharashtra)**. This is the order of Nagpur Bench in Criminal Appeal No. 85 of 1978 decided on 11.12.1979 wherein it is held by the Court that when the Collector is appointing authority, the Sub-Divisional Officer cannot grant sanction. In fact, on 8th

September, 2015 when the present application was heard at length by this Court, in paragraph no.3 of the said earlier order it is specifically mentioned that the substantive evidence of PW no.3 goes to show that she was the appointing and removing Authority and she was not cross-examined by putting the suggestion that she was not the removing Authority and in fact what the law contemplates as mandatory and in section 19 of the Prevention of Corruption Act, 1988 that the sanction is to be given by the Authority which is the removing Authority. In any event, this aspect as to validity or otherwise of the sanction is required to be dealt in detail in the appeal and in that event the present application for leave to appeal is required to be allowed. As such the present application is allowed and disposed of.

- 3) The appeal is admitted. Call for R and P.
- 4) Instead of issuing process under section 390 of Cr.P.C. against the respondent, he is directed to appear before the trial Court on 5th October, 2015 at 11:00 a.m. on which date the trial Court shall release him on bail in the sum of Rs.5000/- with one surety.

(A.R.JOSHI, J.)

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED ORDER.