

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

**CRIMINAL APPLICATION NO.117 OF 2014
[FOR LEAVE TO APPEAL (STATE)]**

The State of Maharashtra	...	Applicant
V/s.		
Vilas Moreswar Ukrulkar	...	Respondent

.....

Mrs. S. V. Gajare, APP for the Applicant/State.
Mr. S. N. Gawade i/b. Shree & Co., Advocate for the Respondent.

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CORAM : ABHAY M. THIPSAY J.

DATED : 28TH APRIL 2015

P.C.

1] The respondent was prosecuted on the allegation of his having committed offences punishable under section 7, 13(1) (d) read with section 13(2) of the Prevention of Corruption Act. The learned Special Judge, Alibag after holding a trial found him not guilty and passed an order of acquittal. The State of Maharashtra is aggrieved by the said order of acquittal and is, therefore, by the present application seeking leave of this Court to appeal therefrom.

2] I have heard Mrs. Gajare, the learned Additional Public Prosecutor, in support of the application. I have heard Mr. Gawade, the learned counsel for the respondent.

3] With their assistance, I have gone through the application and the annexures thereto, which, apart from the impugned judgment, include the notes of evidence recorded during the trial.

4] The case of the defacto complainant-one Uttam Naik - was that he had filed 'change report' in the office of the Assistant Charity Commissioner and the matter was under consideration of the Assistant Charity Commissioner. The Respondent was working as office superintendent in the office of the Assistance Charity Commissioner and he allegedly demanded a bribe of Rs.10,000/- for getting the necessary order regarding the acceptance of the change report.

5] The initial demand, allegedly, was made by the respondent on 27th January, 2010. The defacto complainant immediately went to the office of the A.C.B. and reported the matter. In order to verify the allegation of demand, the defacto complainant was made to speak to the respondent on telephone and the conversation was recorded. Admittedly, however, the conversation did not reveal any demand made by the respondent. Interestingly, since the conversation did not reveal any demand, the investigating officer chose to delete it.

6] The next demand was allegedly made on 29th January,

2010. The conversation in that regard was also recorded but it appears that the recording was not clear and no reliance was placed upon the recorded conversation during the trial.

7] The story goes that the respondent asked the amount to be delivered to a peon working in his office i.e. PW-3 Bhoi. However, the conversation between Bhoi and the defacto complainant was not recorded. Bhoi is said to have refused to accept the amount. In the cross examination, it was revealed that Bhoi and the defacto complainant knew each other, since previously. In the cross-examination, it was also revealed that Bhoi had some grudge against the respondent.

8] The learned Judge observed that the initial demand of illegal gratification had not been satisfactorily proved. It was also revealed, that the charge report had already been accepted by the Assistant Charity Commissioner and on order to that effect had been communicated to the Assistant Charity Commissioner by post on 14th January, 2010. The learned Judge, therefore, did not believe that any demand would be made to the defacto complainant by the respondent thereafter, i.e. on 27th January, 2010.

9] In these circumstances, if the learned Judge felt a doubt about the truth of the prosecution case, the same cannot be

said to be unreasonable. The view of the matter as taken by the learned Judge is a possible view.

10] It is well settled that when such is the case, grant of leave would be futile.

11] Leave refused.

12] Application is rejected.

(ABHAY M. THIPSAY J.)