

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPLICATION No. 73 of 2015

The State of Maharashtra

..Applicant.

Versus

Raghunath Babanrao Zagade

..Respondent.

Mrs Anamika Malhotra, APP for the State.

Mr R. M. Khairnar, Advocate i/by Sachin Thombare for the respondent.

CORAM : A.R.JOSHI,J

DATE : 10th September, 2015

P.C. :

1) Heard rival submissions on this application for leave to file appeal challenging the acquittal of the respondent in the matter of the offences punishable under sections 7 and 13(1) (d) read with section 13 (2) of the Prevention of Corruption Act, 1988.

2) In fact, in the matter the only point dealt with by the Trial Court while acquitting the respondent, is that, the sanction was not accorded by the Competent Authority. PW no.1 is the sanctioning authority in the present case and apparently she had answered during her cross-examination that the respondent was appointed by the Collector, Pune. But in her examination-in-chief she had mentioned that she was working as Sub-Divisional Officer vested with powers to appoint, transfer and remove the Talathis working under the sub-division. According to her, the investigation papers were sent to her for according sanction. She studied the papers and after applying mind came to the conclusion that it is a fit case for according sanction for the prosecution of the accused and accordingly passed the sanction order. During the cross-examination

though she stated and agreed to the suggestion put to her that the accused was appointed as the Talathi vide order of the Collector, Pune. She further stated that the power of the Collector for appointment of Talathi has been delegated to the Sub-Divisional Officer of the sub-division.

3) In the considered view of this Court, this issue as to whether the sanction order is valid or invalid needs consideration and that can be done at the time of final adjudication of the appeal. As such in the considered opinion of this Court, the present application by the State for leave to file appeal is required to be allowed and same is accordingly allowed and disposed of.

4) The appeal is admitted. Call for R and P

5) Instead of issuing process under section 390 of Cr.P.C. against the respondent, he is directed to appear before the trial Court on 5<sup>th</sup> 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.