

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 84 of 2015

The State of Maharashtra ..Applicant.
Versus
Smt. Meena Wamanrao Dhikale ..Respondent.
Mr A.R. Patil, APP for the State - Applicant.
None for the respondent.

CORAM : A.R. JOSHI,J

DATE : 14th OCTOBER, 2015

P.C. :

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

2) The case of the prosecution is that respondent-accused demanded Rs.14,000/- for sanctioning and delivering the cheque for the bill amount for the food supplied by the complainant to the institute of the accused. During the trial, four prosecution witnesses were examined. PW 1 is the

complainant woman, PW no.2 is panch woman, PW no.3 is the Sanctioning Authority i.e. the Additional Commissioner of the Department of Social Welfare and PW no.4 is the Investigating Officer.

3) What weighed with the trial Court was the variance in the substantive evidence of PW nos. 1 and 2 and mainly the omissions brought on record during the cross-examination of pancha PW no.2. The said omissions are vital and to the effect of the demand and acceptance and talk between the respondent-accused and the complainant woman.

4) The trial Court also discussed the substantive evidence of PW no.1 complainant and also came to the conclusion that there was no demand prior to the trap, established by the prosecution. Allegedly there was a telephone call made by the complainant from her mobile phone from the office of the Anti Corruption Bureau to the respondent-accused and during that time the said mobile handset of the complainant was kept on speaker mode and conversation was

heard by the officer from the Anti Corruption Bureau (ACB) and the panch witnesses in presence of the complainant. In spite of this, admittedly, there was no copying of the recorded conversation or any preparation of transcript, much less calling for the call log record, establishing the conversation between the complainant and the respondent-accused over the mobile phone.

5) Also what weighed with the trial Court was that the sanction for prosecution granted by the Officer was not the competent authority, as, according to the material brought before the trial Court, the trial Court held that the sanction would have been given by the Commissioner and not by the Officer below the rank of the Commissioner.

6) Considering the substantive evidence of the prosecution witnesses, in the opinion of this Court, the view taken by the trial Court cannot be considered of such a perverse nature so as to be interfered with in the appeal by allowing the State to re-agitate the matter. In other words, the view taken by

the trial Court is a possible view and as such there is nothing to re-agitate the matter allowing the State to challenge the acquittal of the respondent/accused.

7) In the result, present application for leave to file appeal is dismissed and accordingly disposed of.

(A.R.JOSHI, J.)