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IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 308 OF 2013

Ramesh Shriramji Augad ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Nitin Pradhan i/by J.G. Bhanushali for the applicant.

Smt. V.S. Mhaispurkar, A.P.P. for the State.

CORAM : M.L. TAHALIYANI, J.

DATED : APRIL 21, 2015

P.C.

Admit. Heard finally.

2. The applicant is facing trial for the offence punishable under section 109 of the Indian Penal Code read with section 13(1)(e) read with section 13(2) of Prevention of Corruption Act. The prime accused in this case is one Mr. Janrao Augad who was working as Superintendent in the State Excise. Chargesheet has been filed against 13 accused including the present applicant. The present applicant is nephew of the main accused. He is accused No. 12 in the chargesheet.

3. The allegations against the main accused Janrao Augad are that he had indulged into corruption and had acquired lot of money. The amount so acquired was invested in various properties purchased in the names of the family members and relatives. Most of the said family members and relatives have been charegsheeted in the same chargesheet with the help of section 109 of the Indian Penal Code.

4. As regards the present applicant, the chargesheet states that he had given certain amount to accused no. 3 who is daughter of accused no.1 and that she had acquired property by means of the said amount. Though the amount is not stated in the chargesheet, I am told that it was around Rs. 2 lac. It is also not stated in the chargesheet that the said amount was given to accused no. 12 by accused no.1 for being diverted to the account of accused no. 3. The learned A.P.P. states that this court may draw an inference that the amount must have been given by accused no.1 and therefore, was transfered to account of accused no. 3.

5. I find it difficult to accept the contention of the learned A.P.P. that such inference can be drawn. Unless there are circumstances to indicate that accused no.1 might have diverted the funds to the account of the present

applicant accused no. 12, such an inference cannot be drawn.

6. In my opinion, there is no material to frame charge against accused no. 12 applicant for the offence punishable under section 109 of Indian Penal Code read with 13(1)(e) read with 13(2) of the Prevention of Corruption Act.

7. Therefore, revision application is allowed. The order passed by the learned Special Judge rejecting the prayer of the applicant is set aside. The applicant stand discharged of the offence punishable under section 109 of Indian Penal Code read with 13(1)(e) and 13(2) of the Prevention of Corruption Act and 120B of the Indian Penal Code.

(JUDGE)