

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALS] NO.90 OF 2015

THE STATE OF MAHARASHTRA ...Applicant.
V/S
DAYANAND TUKARAM KOLEKAR ...Respondent.

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Mrs.P.P. Bhosale, APP, for the Applicant-State.

Mr. Dipak S. Shinde, Advocate for the respondent.

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CORAM : A. R. JOSHI, J.
DATE : 18th NOVEMBER, 2015

P.C.

1. Heard rival submissions 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 of the Prevention of Corruption Act.

2. The impugned order of acquittal is passed by Additional Sessions Judge, Satara on 20.5.2015. The case of the prosecution is that the accused demanded and accepted bribe amount of Rs.5000/- on the day of the incident after earlier negotiations with the complainant (PW-1). According to the case of prosecution the complainant has purchased a plot of land from one Mr. Deshmukh. However, for said purchase requisite permission from the Collector was not obtained. Thereafter the complainant went to the Collector office for

obtaining post-facto permission. That time he was equipped with the power of attorney given by said Mr. Deshmukh. It so happened that allegedly present respondent/accused, then employee in the office of the Collector, Satara told that an amount of Rs.58,000/- is required to be paid as official penalty charges and over and above additional amount of Rs.58,000/- is required to be paid as and by way of illegal gratification. Apparently it was decided between the respondent/accused and the complainant (PW-1) that an amount of Rs.5000/- is to be paid in advance. Thereafter the complainant took decision to lodge a complaint with the anti corruption office. Accordingly the trap was led after verification of the demand by recording conversation on tape recorder. Thereafter it is a factual position that at the time of trap the amount was allegedly directed to be kept in the file by the accused and accordingly the complainant put said amount of bribe of Rs.5000/- in the file which was on the table of the accused. After this he went outside and gave signal. Apparently this was not done in presence of panch (PW-2) who was standing beyond the partition wall in the office of the accused. After giving signal by the complainant, the raiding party members entered the office of the accused and then found

out the bribe amount kept in the file. It was taken charge of under panchnama and the respondent/accused was arrested.

3. What weighed with the trial Court was the factual position that the tainted amount was not accepted by the respondent and it was found kept in the file on the table of the accused. The trial Court disbelieved the case of the prosecution as stated by the complainant. Also the trial Court discussed the substantive evidence of PW-2 panch witness as to apparently not supporting the case of prosecution on the actual demand.

4. Considering the effect of the substantive evidence of three prosecution witnesses i.e. PW-1, PW-2 and PW-3 and considering the reasoning given by the trial Court, in the opinion of this Court it cannot be said that the conclusion arrived at by the trial Court is of such a pervert nature so as to be interfered with in appeal. In other words, there is nothing to entertain the present application for leave to file appeal and to reagitate the matter again. In the result, present application for leave to file appeal is dismissed and accordingly disposed of.

(A. R. JOSHI, J.)