

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

CRIMINAL APPLICATION (ALS) NO.96 OF 2015

The State of Maharashtra ..Applicant
V/s.
Nivrutti Eknath Gogawale .. Respondent

Mr.A.R.Patil, APP for the applicant-State.
Mr.Rohan Nahar, for the Respondent.

**CORAM : A. R. JOSHI, J.
DATE : 20th OCTOBER, 2015.**

P.C.

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

2. The impugned judgment and order was passed by Special Judge on 01st June 2015 acquitting the respondent of the offences charged.

3. What weighed with the trial Court was no

corroboration to the testimony of the complainant inasmuch as the panch witness did not support the case of the prosecution on the actual demand of the bribe amount by the respondent. Secondly the trial Court held that if at all the testimony of P.W.No.2 is to be accepted as corroborating that of the complainant, still said panch was apparently regular panch for the ACB Office as he has earlier acted in four different cases of trap. What weighed with the trial Court was the sanction not given by the Competent Authority i.e. the Commissioner of Police. The trial Court has also observed in para no.28 of the impugned judgment as to the failure of prosecution to establish that there was authority given to the Commissioner of Police to delegate his powers to Deputy Commissioner of Police. It was held by the trial Court that the sanction given by P.W.No.5 Deputy Commissioner of Police was not valid and which goes to the root of the matter.

4. Considering the substantive evidence of the five prosecution witnesses, mainly that of the complainant and panch witness, in the opinion of the Court the view taken by

the trial Court cannot be considered as of such a pervert nature so as to be interfered with by allowing the State to challenge the order of acquittal. In the result there is nothing to entertain the present application for leave to file appeal and hence present application is accordingly dismissed and disposed of.

(A. R. JOSHI, J)