

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.447 OF 2014

Smt. Nutan Sanjay Jadhav

....Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Madhusudan Pareek a/w Mr. M.G. Shukla for the Applicant
Smt. V.S. Mhaispurkar for the Respondent -State.

CORAM:-M.L. TAHALIYANI, J.

DATED : -16th APRIL, 2015.

P.C.

Heard learned counsel for the Applicant and learned APP
for the Respondent -State.

2. Admitted. Heard finally.

3. This revision application is against the order of the learned
Special Judge, passed in Special Case No.73 of 2013 refusing to
discharge the Applicant of the offence punishable under section 15
r/w section 13 (1) (d) of the Prevention of Corruption Act (hereinafter
referred to as 'the Act').

4. The Applicant was working as Inspector in Licence Department of Municipal Corporation, Greater Bombay. The complainant in the present case Pravin Parmar alleged that the Applicant had demanded certain amount from the complainant for extending some favour in the matter of license issued under section 394 of the MMC Act. It further appears from the charge-sheet that demand made by the Applicant was verified and record thereof was prepared. However, the Applicant did not accept the bribe amount when it was offered to her. It is alleged that the Applicant had told the complainant that case had been filed in the Court and the complainant would have to pay fine within the range of Rs. 5,000/- to Rs.25,000/-

5. Learned counsel for the Applicant has submitted that the sanction granted by the sanctioning authority is for the offence punishable under section 15 of the Act. It is brought to my notice that there is no mention of section 13 (1) (c) or section 13 (1) (d) of the Act. It is contended that the Applicant could not be prosecuted for the offence punishable under section 15 r/w section 13 (1) (d) of the Act because there is no sanction as far as section 13 (1) (d) is

concerned. In this regard it may be mentioned here that section 15 cannot be read in isolation. It is to be read alongwith either section 13 (1) (c) or section 13 (1) (d) of the Act.

6. Learned counsel has further submitted that from the facts of the case, it can be seen that at the most there was demand on the part of the Applicant. There is no sanction for prosecuting the Applicant for offence punishable under section 7 of the Act. Therefore, charge against the Applicant, according to learned counsel for the Applicant is bound to fail. It is repeatedly contended that the Applicant had not attempted to obtain any pecuniary advantage. At the most he could be said to have demanded. As already stated, there is no sanction for prosecuting the Applicant for demanding illegal gratification.

7. I have gone through the charge-sheet and the complaint of the complainant. It can be seen from the charge-sheet and the complaint that demand was made only to obtain pecuniary advantage. As such, there was an attempt to obtain pecuniary advantage but the attempt had failed. Therefore, prima facie it amounted to offence punishable under section 15 r/w section 13 (1) (d) of the Act. I do not find any fault in the sanction granted by the sanctioning authority.

Even if, minor defect is found in the sanction, what is required to be examined is as to whether the said minor or technical defect causes serious prejudice to the case of the Applicant. This can be examined by the Trial Court.

8. As such, I do not find any substance in the revision application, it stands dismissed.

9. Observations made in this order are prima facie and are on the basis of the charge-sheet and documents annexed to the charge-sheet. Trial Court obviously is not supposed to be influenced by this Court's observations when the case is to be decided on the basis of the merits on the evidence adduced before it.

(JUDGE)