

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [APPA] No.250 of 2015
IN
Criminal Appeal No. of 2015
[State of Mah., through Dy. S.P., ACB, Chandrapur Vs. Sanjay
Angadrao Pajankar]

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. P.V. Bhoyar, APP for appellant-State.
Ms. Pinky Jagtap, Adv., holding for Mr. N.A. Lalwani, Adv., for the
respondent.

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CORAM : V.M. DESHPANDE, J.

DATE : 01st October, 2015.

By the present Application, the State is
challenging the Judgment and Order of acquittal dated
30th December, 2014, passed by the Special Judge,
Chandrapur, in Special [ACB] Case No. 11 of 2005.

Heard Mr. P.V. Bhoyar, learned APP for the
appellant-State *in extenso* and also learned counsel for

the respondent.

The prosecution before the learned Trial Court has examined in all four witnesses. Kamlabai [PW 1] is the complainant, whereas Pratibha [PW 2] is the shadow witness. PW 3 is Mr. Sanjiv Jaiswal, the Divisional Commissioner, who has granted sanction, has proved the Sanction Order [Exh.29]. The last witness is Jabbar Khan [PW 4], who, at the relevant time, was discharging his duties as a Deputy Superintendent of Police, Anti-corruption Bureau at Gadchiroli.

Both the material witnesses in the prosecution case, namely complainant - Kamlabai and the shadow witness - Pratibha [PW 2], had turned hostile and they did not support the prosecution case. Thus, the entire case of the prosecution rests on the evidence of Investigating Officer [PW 4].

Worth to note that the bribe amount was not found in the hand of the accused/respondent. Even, according to the prosecution, the said tainted amount was found in a file on the table of the accused. According to the prosecution, it is the respondent who had directed Kamlabai to keep tainted amount in the file.

In the present case, in my view, the learned Judge of the court below has correctly reached to the conclusion that the prosecution has utterly failed to prove the demand on the part of the respondent-

accused. The demand is *sine qua non* for the prosecution under Sections 7 and 13 (1) (d) of the Prevention of Corruption Act. When the prosecution was unable to prove the said basic element, in my view, the Judgment and Order of acquittal cannot be faulted.

Hence the application is rejected.

Judge

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