

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3327 OF 2015

The State of Maharashtra, through
Sundar Rambhau Bhandwale,
Age 57 years, Occ. Dy. S.P.
Anti Corruption Bureau,
Osmanabad ..Applicant

Versus

Gunvant Damodhar Salve,
Age 55 years, Occ. Service
as Senior Assistant,
Education Department
(Secondary Division),
Zilla Parishad, Osmanabad,
r/o. Hasegaon (Kaij),
Tq. Kallam, Dist. Osmanabad ..Respondent

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Mr.R.B.Bagul, APP for for applicant – State

Mr.V.B.Deshmukh, advocate for respondent-sole

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CORAM : M.T. JOSHI, J.

DATE : JANUARY 18, 2016

ORAL ORDER :

Heard both sides.

2] Aggrieved by the acquittal of present
respondent from the offences punishable under

Section 13(1)(d) read with 13(3) of the Prevention of Corruption Act, 1988 in Special (A.C.) Case No.8 of 2012 by learned Special Judge, Osmanabad, the State wants to prefer an appeal and therefore, present application for grant of leave to file appeal, is filed.

3] The prosecution case, in short, is as under :-

. That present respondent being a Senior Clerk in the Education Department of Zilla Parishad, Osmanabad had made a demand for the amount of Rs.5,000/- for sanctioning rent for a school. There was verification of the said demand in presence of the panch witness and ultimately, on 22nd February, 2012, in presence of the very panch witness, the respondent had made the demand, accepted the amount, counted the same and kept in the left hand pocket of his shirt.

4] Learned Special Judge has held that the sanction order does not detail the facts and it is merely written that the documents of the investigation were perused with the confidential letter and the sanction was accorded. Therefore, it is not a valid sanction to prosecute the respondent/ accused. It was *inter alia* held that though the voice is said to have been recorded on a voice recorder during the verification exercise, there was no issue of any demand was raised and only a question was made by the respondent/ accused, as to whether any letter was brought. It is, however, the prosecution case that at that time in code language, the respondent had asked about the letter. Further, learned Special Judge has observed that PW 2 - panch witness has admitted that the complainant had asked the respondent to count the amount by taking out from the pocket.

5] Learned APP submits that the evidence of this

witness would show that present respondent had again made the demand of bribe amount, accepted the same and upon counting, kept the same in the left side pocket of his shirt.

6] Considering all the facts on record, in my view, leave to file the appeal deserves to be granted.

7] Hence, the application for grant of leave to file the appeal is allowed. Leave granted. The appeal be registered.

[M.T. JOSHI, J.]

kbp