

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3806 OF 2015
(The State of Maharashtra Vs. Chandrakant Tukaram Ghodke)

Mr. N.T. Bhagat, A.P.P. for the applicant/State
Mr. Rajendra S. Deshmukh, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 24/02/2016

ORAL ORDER :

1. Heard both sides.
2. The present respondent was acquitted from the offences punishable under section 7 and 13 (1) (d) read with section 13 (2) of the Prevention of Corruption Act, 1988, by the learned Special Judge, Ahmednagar vide judgement and order dated 29th April, 2015, passed in Special Case (ACB) No. 01/2012. Aggrieved by the said order of acquittal, the State wants to prefer an appeal and therefore, the present application for grant of leave to file appeal is filed.
3. The respondent was the sectional engineer in the Electricity Department at Ahmednagar. The

complainant's factory was inspected by him on 15th July, 2010. Thereafter, it was communicated to the complainant that an amount of Rs. 2400/- towards the fees of three units will have to be deposited with the Government at the rate of Rs. 800/- per unit. Besides, he additionally made a demand of Rs. 3000/- as a bribe for giving positive report.

. All these talks, according to the prosecution case, had taken place on cell phone as the complainant was away from the factory at that time. The complainant, thereafter, filed his complaint on 16th July, 2010 with the Anti Corruption Bureau, Ahmednagar.

4. The investigating officer collected two panch witnesses, including the shadow panch witness PW3 Subhash Gadade. The amount of fees of Rs. 2400/- was placed in one compartment of the wallet of the complainant and the bribe amount of Rs. 3000/-, smeared with anthracene powder was kept in another compartment of the wallet. The complainant and the shadow panch witness proceeded to the place i.e. near H.D.F.C. Bank in Sukhsagar hotel as was determined in view of the phone call made by the complainant to the appellant.

Thereafter, according to both – the complainant and the shadow panch witness, the respondent first took the amount towards the fees, passed the receipts and thereafter, he asked for his own money. Thereafter, the decoy money was paid by the complainant and the respondent came to be apprehended.

5. The learned Special Judge in the judgement merely recorded the summary of the depositions of the witnesses including some admissions given by them. He also merely recorded arguments of both sides and ultimately, observed that in the light of the said discussion, no implicit reliance can be placed on the testimonies of the complainant and the shadow panch witness.

6. Further, regarding the sanction by the sanctioning authority, the sanctioning officer PW1 Dhananjay Dhawad admitted that the contents of the sanction order were written on the basis of the summary which was sent by the Anti Corruption Bureau. The officer further admitted that the prior permission from the concerned Minister has to be obtained when any employee is to be removed from service. It was

therefore held that sanction was not valid. However, the witness had clarified that the Secretary is not expected to make correspondence in this regard to the concerned Minister.

7. Considering all these facts on record and finding that an arguable case is made out, leave to file appeal is hereby granted. The present application is accordingly allowed and disposed of.

[M.T. JOSHI]
JUDGE

npj/criapln3806-2015