

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4675 OF 2015
(The State of Maharashtra Vs. Raghunath Lahnu Wagh)

Mr. R.B. Bagul, A.P.P. for the applicant/State

Mr. N.B. Narwade, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 11/02/2016

ORAL ORDER :

1. Heard both sides.
2. Aggrieved by the acquittal of the respondent from the offence 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 order dated 16th June, 2015, passed in Special Case No. 9/2012, the State wants to prefer an appeal and hence, the present application for grant of leave to file appeal is filed.
3. In nutshell, the allegations are that the

present respondent being Senior Clerk in Tahsil office at Jamkhed had made demand of Rs. 15,000/- to carry entry in the revenue record in favour of the complainant. Thereafter, during the trap, he made similar demand and accepted the amount. Earlier during the verification exercise, in presence of the shadow panch witness, the demand was made by writing the amount on the document. According to the prosecution, a voice recorder was used during the exercise.

4. Unfortunately, before the trial could begin, both the panch witnesses had died. PW2 complainant, therefore, was examined to prove all these facts. The learned Special Judge, however, found that the said witness had noted down various dates on his palm and by looking at the palm, he was giving deposition.

. Not only this, while entering in the witness box, he had certain papers and when the learned Special Judge enquired with him about the facts, he told that those were different documents i.e. the statements recorded in the office of the Collector. However, when the learned Special Judge personally verified the

documents, it was found that those were the statements recorded by the investigating officer in the case. Even those papers were taken into custody by the learned Special Judge. Further, though, according to the prosecution, the voice recorder was used during the exercise, no cassette was placed by the investigating officer alongwith the chargesheet.

5. Considering all this material on record, I do not find any perversity in the order of acquittal recorded by the learned Special Judge. The present application is, therefore, liable to be dismissed.

6. The State ought to have taken into consideration that it is the investigating officer who, for the reasons best known to him, had not filed alongwith the chargesheet the cassette, which could have been the corroboration. In the circumstances, it would be better for the State Government to initiate action against the said investigating officer i.e. PW3, the then Police Inspector, Anti Corruption Bureau, Ahmednagar – Jagannath Dnyandeo Kalaskar.

. With the above observations, the present application for grant of leave to file appeal is hereby dismissed.

[M.T. JOSHI]
JUDGE

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