

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 4734 OF 2015**

The State of Maharashtra

.APPLICANT

VERSUS

Rajaram Buvaji Suryawanshi and Another

.RESPONDENTS

....  
Mrs. R.K. Ladda, Advocate for applicant.  
None for respondents.

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**CORAM : INDIRA K. JAIN, J.**  
**DATED : 29<sup>th</sup> MARCH, 2016**

**ORDER :**

. This application under Section 378(1)(3) of the Code of Criminal Procedure is for grant of leave to appeal against the judgment and order dated 29.05.2015 passed by the learned Additional Sessions Judge, Nandurbar in Special Case No.1/2012. By the said judgment and order the Trial Court acquitted both the accused of the offences under Sections 7 and 13(1) read with Section 13(2) of the Prevention of Corruption Act and Section 34 of the Indian Penal Code.

2. Heard Mrs. R.K. Ladda learned APP. None for Respondents though duly served. Perused record including judgment of the Trial Court.

3. It is the case of prosecution that at the relevant time Accused No.1 was working as Talathi of village Vadfali, Tq. Nawapur, Dist. Nandurbar. Accused No.2 was Kotwal and used to work with Accused No.1. PW 2 Subhash Maulya is complainant. His father died on 06.08.2010 and uncle died on 25.04.1994. The family owned an agricultural land. After the death of his father and uncle Complainant wanted to bring the names of legal heirs on record. Therefore he approached Accused No.1 Rajaram. It is alleged that Accused No.1 demanded Rs.6,000/- for recording the names of legal heirs on record. Complainant paid Rs.6,000/- to Rajaram. As nothing was done complainant met Accused No.1 in his office and requested to bring the legal heirs on record.

4. On 29.01.2011 complainant again went to the office of Accused No.1. That time Accused No.1 Rajaram told him to pay Rs.10,000/- more else work would not be done. On 31.01.2011 Complainant approached Anti Corruption Bureau and lodged a report. Since he is Adivasi and was not knowing local language his complaint was recorded by ASI Gavit who was conversant with the language known to Complainant.

5. After the report was lodged a trap was arranged. It was successful. On completion of investigation charge-sheet was filed

before the Special Court. Charge came to be framed against the accused they pleaded not guilty and claimed to be tried.

6. Prosecution examined in all four witnesses to substantiate the alleged guilt of accused. After considering the evidence of complainant and panch witness Trial Court noticed various inconsistencies in their evidence and came to the conclusion that prosecution could not prove the guilt of accused beyond reasonable doubt. In this background accused came to be acquitted which is the subject matter of challenge in this application for leave to appeal.

7. With the assistance of learned APP, this Court has gone through the evidence of prosecution witnesses. It can be seen from the evidence of Complainant Subhash and panch witness PW 3 Anil that they supported the case of prosecution in respect of trap. Panchnama is proved. Complainant Subhash had given the details in FIR and also in his evidence regarding demand and acceptance of amount of Rs.10,000/-. Accused No.1 Rajaram made a demand as he was the person who was to enter the names of legal heirs in revenue record. Acceptance of amount by Accused No.1 was through Accused No.2 and this has been specifically stated by complainant as well as the panch witness.

8. In this premise this court finds that prosecution has an arguable case. Application for leave to appeal thus deserves to be allowed. Hence the following order:

- I) Criminal Application No. 4734/2015 is allowed.  
Leave to appeal granted.
- II) Admit Appeal.
- III) Action under Section 390 of the Code of Criminal Procedure.

**( INDIRA K. JAIN, J. )**