

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4789 OF 2015
(The State of Maharashtra Vs. Manjabapu Bajirao Gite)

Mr. A.R. Kale, A.P.P. for the applicant/State

Mr. S.T. Shelke, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 24/02/2016

ORAL ORDER :

1. Heard both sides.
2. Aggrieved by the acquittal of the respondent from the offences punishable under section 7 and 13 (1) (d) read with section 13 (2) of the Prevention of Corruption Act, by the learned Special Judge, Ahmednagar, vide judgement and order dated 25th June, 2015, passed in Special Case (ACB) No. 11 of 2013, the State wants to prefer an appeal and therefore, the present application for grant of leave to file appeal is filed.
3. The prosecution case, in short, is as under :-

. That, the present respondent was working as Canal Inspector of Bhandardara project at Baragaon Nandur, Taluka Rahuri, District Ahmednagar. Six acres of land of one Maruti Deosthan Trust, is situated at Dawangaon within the territorial jurisdiction of the present respondent. Complainant Govind Raghunath Khapke was the chairman of the said trust. Certain trees were planted in the said land. Upon request of the complainant, the respondent had provided water supply sufficient for five acres of land. Thereafter, the complainant approached the respondent and requested to supply water for remaining one acre of land. Upon that, the appellant made a demand of Rs. 2500/- as bribe. The complainant requested to reduce the same, but the respondent refused for the same. In the circumstances, the complaint came to be filed on 27th December, 2012.

4. The investigating officer has arranged verification of the demand with the help of shadow panch witness. During that verification also, the demand was made. Thereafter, the trap was led on 27th December, 2012 i.e. on the date of filing of the complaint itself.

During the said trap, in presence of the shadow panch witness, the respondent again made demand towards the illegal gratification and accepted the same. Thereupon, seeking sanction from the appointing authority of the respondent, the chargesheet came to be filed.

5. The learned Special Judge took into consideration the material on record. According to her, the prosecution has failed to prove beyond reasonable doubt that any offence is committed by the respondent and hence, the acquittal of the respondent came to be recorded. Hence, the present application.

6. Learned A.P.P. took me through the record and submitted that in fact, the respondent has admitted the acceptance of the decoy money. Thus, the learned Special Judge ought to have drawn presumption against him. He further submitted that the evidence on record would show that the prosecution has proved its case beyond reasonable doubt. He, therefore, submitted that the leave to file appeal may be granted.

7. Mr. S.T. Shelke, learned counsel for the respondent, on the other hand, submitted that since the

order of acquittal is recorded by the learned Special Judge on the basis of material before her, no perversity in the reasoning is found and hence, this court should not grant leave to file appeal.

8. Upon hearing both sides, in my view, no fault can be found with the reasoning forwarded by the learned Special Judge. The evidence on record would show that the complainant was not at all the chairman of the trust though the property was of the trust. The evidence on record would show that the superiors of the respondent were time and again issuing memos for recovery of the arrears towards the water cess. It is the case of the respondent that he accepted the amount towards the recovery of water cess. The variance between the statements of the complainant and the shadow panch witness would show that while the complainant was very specific regarding the demand of money as bribe, the deposition of the panch witness is silent in this regard.

9. Considering all the above material on record, grant of leave to file appeal against the acquittal would be an exercise in futility. The leave to file

appeal is therefore refused. The application accordingly stands dismissed.

[M.T. JOSHI]
JUDGE

npj/criapln4789-2015