

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5578 OF 2015

The State of Maharashtra,
Through Police Station Officer,
Shillegaon,
Tq. Gangapur, Dist. Aurangabad

.. Applicant
(Orig. Complainant)

Vs.

Ramnath S/o Parasram Nirmal,
Age 50 years, Occu.: Service,
R/o Police Station Shillegaon,
Lasur Station, Tq. Gangapur,
Dist. Aurangabad

.. Respondent
(Orig. Accused)

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

CORAM : M.T. JOSHI, J.
DATE : 10/02/2016

ORAL ORDER :

Heard both sides.

2. Aggrieved by the acquittal of the respondent from the offences punishable under section 7, 13(1)(d) r/w. 13(2) of the Prevention of Corruption Act, 1988, by the learned Special Judge, (P.C. Act), Vaijapur, Dist. Aurangabad vide judgment and order dated 04/08/2015

passed in Special Case (P.C.) No.12 of 2012 [Old Spl. Case (P.C.) No.6 of 2011], the State wants to prefer an appeal and, therefore, the present application for leave to file appeal is preferred.

3. The prosecution case in short is that, the present respondent being a Police Head Constable had made a demand of Rs.2000/- for taking serious action against the rival of the complainant PW1 – Balu Thorat. An amount of Rs.1100/- was paid and when the respondent pestered further for the remaining amount of Rs.900/-, the complaint was filed.

4. The matter was investigated by Anti Corruption Bureau. During the verification, in presence of the shadow panch witness – PW3, the respondent again made the demand. Thereafter, the trap was laid and during the trap also, again by making the demand, the present respondent accepted the decoy money.

5. The learned Special Judge acquitted the respondent for the reasons that though the tape recorder is stated to have been used during the exercise, the

Investigating Officer did not place the same in the record, for the reason that since the incident has occurred in open place, nothing could be recorded in the tape recorder.

. Further, the shadow panch witness made certain deviations regarding the incidents those had occurred at the time of initial trap though he supported the case that respondent, during the verification has made demand of the bribe.

6. Upon hearing both sides and considering all the material on record, in my view, an arguable case is made out. In the circumstances, leave to file appeal is hereby granted. Criminal Application is accordingly allowed and disposed of.

7. Appeal be registered as per the due procedure.

[M.T. JOSHI]
JUDGE

arp/