

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 577 OF 1998

The State of Maharashtra ... Appellant
V/s.
Kishorsingh Jalamsing Rajput
R/o.82, North Kasba, Solapur. ... Respondent
...
Mrs. A. A. Malhotra, Asstt. Public Prosecutor for the appellant.
None for the respondent.

...
CORAM : S. B. SHUKRE, J.

DATE : 14 JUNE 2016.

P.C.:

1. This is an appeal against the Judgment and order rendered in Special Case No.7 of 1993 on 10 March 1997 thereby acquitting the respondent / accused of the offences punishable under sections 7 and 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988.

2. I have heard learned Asstt. Public Prosecutor for the State and none is present on behalf of the respondents.

3. I have carefully gone through the impugned Judgment and order and the record of the case.

4. The respondent was prosecuted for the aforesaid offences on the allegations that on 02 November, 1992, at Tahsil Office, North Solapur, where the respondent, was then working as a clerk, the respondent demanded and actually accepted gratification other than the remuneration in the sum of Rs.100/- from the complainant Namdev Rangnath Shinde in order to sanction the official grant as “freedom fighter” in favour of the complainant.

5. By the impugned Judgment and order, the Special Judge found that though the offences, on merits, were proved by the prosecution beyond reasonable doubt, the sanction accorded for prosecution of respondent was not legal and valid and as such, the learned Special Judge acquitted the respondent of the said offences.

6. On going through the evidence available on record and also the impugned Judgment and order, I find that the view taken by the learned Special Judge is possible. There has been no evidence adduced by the prosecution showing that the entire material was placed before the Collector, Solapur and that the Collector, Solapur, applied his mind to the material placed before him and accorded sanction to prosecute the respondent. The evidence of PW-6 Bhaskar Shende, Assistant Chitnis at Collector Office, is relevant in this regard. His evidence shows that what he had sent to the Collector through Senior Chitnis and Resident

Deputy Collector was a note prepared by him regarding grant of sanction or otherwise vide Exh.57 and if does not specifically indicate that alongwith the note he had also sent the relevant papers to the Collector. He has also not deposed before the Court that the Collector had discussed with him some of the facts of the case and then made his own conclusions in the matter. On the contrary, what he says is that he saw the Collector opening sealed envelope containing a draft sanction and signing it. According to him, what was done in his presence by the Collector was only signing the draft sanction and nothing more. It is clear that the inference drawn from such prosecution evidence by the learned Special Judge that there was no proof regarding consideration of the relevant material and application of mind by the Collector to it before according sanction can not be faulted with.

7. In my view, no sufficient grounds have been made to enable me to interfere with the impugned Judgment and order. The Appeal deserves to be dismissed and the Appeal stands dismissed.

(S. B. SHUKRE, J.)