FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 22 OF 2016

The State of Maharashtra Vs. Hiraman Santoba Gavhane & Anr.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

---

Ms. P.P. Bhosale, APP for Applicant-State.
Mr. Sudhir Sadavarte for Respondent No.1.

CORAM : A.S. GADKARI, J.
DATE : 15th June 2016.

P.C.:

1 This is an application for leave to appeal under Section 378(3) of Cr. P.C. against the impugned Judgment and Order dated 12.10.2015 passed by the learned Special Judge, Pune under the Prevention of Corruption Act in Special Sessions Case No.57 of 2013 thereby acquitting the respondents from the offence punishable under Sections 7, 13(1)(d) read with 13(2) as well as Section 12 of the Prevention of Corruption Act, 1988.

2 Heard the learned APP for Applicant-State and the learned Counsel for the respondent No.1, also perused the impugned Judgment and Order and the notes of evidence along with other record produced before me.

3 It is the prosecution case that the respondent No.1 was working as a Talathi of village Dhamari and the respondent No.2 was his subordinate and that the respondent No.1 demanded illegal gratification other than legal remuneration from the complainant namely Shri Shrikrishna A. Daphal and accepted the same through the respondent No.2 for effecting mutation entry in respect of Gut No.155/1 at village Dhamari, District Pune. It is the prosecution case that the respondent No.1 initially demanded Rs.7000/- for effecting the mutation entry in the revenue record and after negotiation with the complainant, the said amount was settled at Rs.4000/-. That pursuant to the said demand, the complainant paid the first installment of Rs.3000/- to the respondent No.1. As there was encumbrance of Pune Central District Co-Operative Bank over the said land, the respondent No.1 directed the complainant to bring clearance certificate from the said Bank. On 19.11.2012 the complainant contacted the respondent No.1 on his mobile phone when the respondent No.1 informed the complainant that the documents are ready and asked him to collect those document by paying balance amount. As the complainant was not ready and willing to pay the balance amount of illegal gratification, he lodged the complaint with Anti-Corruption Bureau. The Investigating Agency after complying with the necessary formalities, laid a trap on 21.11.2012 in the Office of the respondent No.1. It is the further prosecution case that one currency note of Rs.500/- was found on the top of the cupboard which was in the office of the respondent No.1 and another note was seized from the complainant himslef. The said notes was having traces of anthracin. After completion of investigation, the prosecuting agency submitted chargesheet in the Court of competent jurisdiction.

4 The learned Trial Court after recording the evidence and after hearing the parties to the said case, was pleased to acquit the respondent No.1 from all charges by its Order dated 12.10.2015.

The record discloses that the demand with respect to alleged balance of Rs.1000/- itself is not proved beyond reasonable doubt by the prosecution. That the verification of demand by the respondent No.1 which was allegedly effected on the mobile phone was itself not proved beyond reasonable doubt, as the respondent No.1 on being asked by the complainant about the balance amount to be paid, said that “nothing to pay”. The complainant has given a specific admission to that effect in his cross-examination. The prosecution has utterly failed to prove the demand by the respondent No.1 beyond reasonable doubt. It is further to be noted here that the tainted currency notes were notes were not found on the person of either of the respondents. One of the currency note was found on top of the cupboard which was situated in the office of the respondent No.1. It therefore appears from the record that as the verification of demand at the instance of respondent No.1 by the prosecution has failed, the possibility of foisting of a currency note or keeping the same on the said cupboard by the complainant cannot be ruled out. Thus the prosecution has failed to prove beyond reasonable doubt the demand and acceptance of alleged illegal gratification by the respondent No.1.

5 As far as valid sanction, which is pre-requisite for taking cognizance under Section 19 of the Prevention of Corruption Act, 1988 is concerned, the respondents in their defence have proved that the sanction was not granted by the competent authority and the prosecution has failed to prove a valid and legal sanction.

6 After taking into consideration the aforesaid factual and legal aspect of the matter which has emerged from the record during the course of Trial, the Trial Court acquitted the respondents from the charges framed against them. After minutely perusing the entire record, I find that the view taken by the Trial Court is a probable view, and in my opinion no case for grant of leave is made out.

7 The application being devoid of merits, is accordingly dismissed.

(A.S. GADKARI, J.)