

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.57 OF 2016

The State of Maharashtra.

..Applicant.

vs.

Dilip Pandharinath Marathe.

..Respondent.

Smt.Anamika Malhotra, APP. for the Applicant.

Smt. Vrushali Maindad for Respondent No.1.

CORAM : A.S.GADKARI, J.

DATE : 09th June, 2016

P.C.

Heard the learned APP. and the learned counsel for the Respondent and also perused the entire record produced before me.

2) This is an application for leave to file appeal as contemplated under Section-378(3) of the Criminal Procedure Code against the impugned Judgment and Order dated 6.2.2016 passed by the learned Special Judge, Solapur in Special Case No.25 of 2014. The respondent was the original accused in a crime registered with Anti Corruption Bureau, Solapur under Section 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act and under Section 201 read with 511 of the Indian Penal Code which was culminated into Special Case No.25/2014.

3) It is the prosecution case that the complainant Samadhan Pandhare (PW.1) was serving in S.T. Corporation at Pandharpur Depot as a Conductor since 2005. A departmental enquiry was initiated against the complainant for collecting an amount of Rs.160/- in excess while he was on duty. In the said departmental inquiry a show cause notice for dismissal was issued by the Corporation to the complainant. Against the said show cause notice the complainant (PW.1) had filed a complaint of unfair labor practice against the Corporation as contemplated under the

provisions of Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act before the Labour Court at Solapur in September 2013. The respondent was working with the Maharashtra State Road Transport Corporation and was representing the said Corporation in the complaint case before the Labour Court at Solapur. It is the further case of the prosecution that the respondent demanded Rs.4000/- for a favorable result, from the complainant in the matter pending before the Labour Court. That, the respondent was not willing to pay the bribe amount of Rs.4000/-and hence, he lodged complaint with the Anti Corruption Bureau. That, after completing the necessary formalities a trap was led on 25.6.2014 when the respondent was found accepting alleged illegal gratification of Rs.4000/-. The learned Trial Court after recording the evidence and after hearing the parties to the said case was pleased to acquit the respondent from all the charges levelled against him by the impugned Judgment and order dated 6.2.2016.

4) The learned Trial Court has acquitted the respondent on the ground that the demand at the behest of the respondent was not proved beyond reasonable doubt though the respondent was found in possession of tainted amount. The admissions given by the complainant in his evidence show that it was the complainant who persuaded the respondent to accept certain amount and to save him from the clutches of law. It is further clear from the record that the demand by the respondent, itself, was not proved beyond reasonable doubt. It is to be noted that, there are material omissions and contradictions in the evidence of the prosecution witnesses which have been brought on record by the respondent and which creates doubt about the prosecution case in the mind of the Court. As the demand itself is not proved beyond reasonable doubt, mere finding of the amount in possession of the respondent loses its

significance particularly in view of the admissions given by the complainant in his cross examination. The view taken by the learned Trial Court is a probable in view of the facts of the present case.

5) I find that there are no merits in the application. Application is accordingly dismissed.

(A.S. GADKARI, J.)