IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 407 OF 2015
IN
SPECIAL CASE NO. 5 OF 2015

Shri. Prakash Vasant Deshmukh ....Applicant
Versus.
State of Maharashtra
(ACB, Mumbai) ......Respondent

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Mr. Ravikiran Patne, Advocate for the applicant.

Ms. A. Malhotra, APP for State.

Coram :- Smt. R.P. SondurBaldota, J.

17th February, 2016.

P.C. :-

1). This Revision Application challenges the order dated 3rd August, 2015 by which the Special Judge for the Prevention of Corruption Act, rejected the application at Exhibit-4 filed by the petitioner seeking his discharge from the proceedings. The petitioner is brother of one, Sanjay Deshmukh who worked in Mumbai District Central Co-operative Bank Limited. The first informant is the Ex-MLA and President of Mumbai District Bank. Different co-operative banks, credit societies, other co-operative societies and others are members of the District Bank. Mumbai District Bank used to disburse loans to its member co-operative societies, who in turn, disbursed the loans to its members. As per the prosecution case, these co-operative societies have disbursed loan to the tune of Rs.119 crores which was handed over to them by Mumbai District Bank. The member Societies having committed several irregularities, the Chief Executive Officer of Mumbai District Bank filed complaint with Economic Offences Wing (EOW) on the basis of which Crime No. 67 of 2012 was registered. The accused concerned with the crime are office bearers of 59 member societies and the Directors of the District Bank. The applicant is one of the accused in the matter. It is alleged on 3rd September, 2014 the applicant had come to the office of the first informant and demanded a sum of Rs. 5,00,000/- from him. After negotiations, the amount was reduced to Rs.1,50,000/-. Later the police laid trap and caught the applicant red handed with the amount.

2). Mr. Patne, the learned Advocate appearing for the petitioner submits that since neither the first informant nor the applicant is a public servant, it cannot be said that the offence under Section 8 of the Prevention of Corruption Act has been made out. The Special Court, has considered this argument and held that to prove the offence punishable under Section 8 of the Prevention of Corruption Act, the prosecution needs to prove that "the accused has accepted or agreed to accept or attempted to accept from any person, for himself or for any other person, any gratification as a motive or reward for inducing, by corrupt or illegal means to do or to forbear to do any official work or showing favour or disfavour; or render any service to any person." From the language of Section 8, it is clear that, even if a person who is not a public servant, accepts illegal gratification from another person as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, the same would be covered by Section 8. In the circumstances, the Special Court has correctly dismissed the application for discharge. The Revision Application is therefore dismissed.

(SMT. R.P. SONDURBALDOTA, J)