

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.125 OF 2015

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

SHRAVAN SHANKAR SAVANT)...RESPONDENT

Shri A.R.Patil, APP for the Applicant – State.

Shri Tejas Hilage, Advocate for the Respondent.

CORAM : ABHAY M. THIPSAY, J.

DATE : 7th APRIL 2016.

P.C. :

1 The respondent was prosecuted on the allegation that he had committed offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act (P.C.Act). The Special Judge, Kolhapur, after holding a trial, found the respondent not guilty, and acquitted him. The State of Maharashtra is aggrieved by the said order of acquittal, and is, therefore, by the present application, seeking leave of this court to file an appeal therefrom.

2 I have heard Shri A.R.Patil, the learned APP, in support of the application. I have heard Shri Tejas Hilage, the learned counsel for the respondent. I have been taken through the application, the annexures thereto, and the impugned judgment.

3 For the sake of convenience and clarity, the applicant shall hereinafter be referred to as 'the complainant' and the respondent as 'the accused.'

4 The prosecution case, as put forth before the trial court, was in brief, that, the original complainant Jitendra Patil wanted money lending license and had applied to the Office of the Assistant Registrar, Co-operative Societies, Kolhapur, for obtaining such license. The accused was working as a Senior Clerk in the Office of the Assistant Registrar. He, allegedly, demanded illegal gratification of Rs.5,000/- from the complainant, and as the complainant did not want to pay it, he reported the matter to the Anti Corruption Bureau (ACB), pursuant to which, a trap was laid and the accused was apprehended, after he had accepted the first

installment of the illegal gratification, i.e., an amount of Rs.2,000/-. One of the contentions raised by the accused during the trial was that the work of issuing money lending license was not entrusted to the Office of the Assistant Registrar of the Co-operative Societies, Kolhapur, where he was working, but that, it was with the Office of Deputy Registrar of the Co-operative Societies, Kolhapur. The accused disputed that there was any occasion for him to deal with any such application made by the complainant. In this context, the learned Special Judge observed that the Inward and Outward Register that was maintained in the Office of the Assistant Registrar of the Co-operative Societies, was not taken charge of during investigation, and was not produced before the trial court. He also observed that, according to the complainant, the said application was made by him in the Office of the Assistant Registrar, Co-operative Societies, on 29th July 2008, but what was produced before the court was an application dated 31st July 2008, which was made to the Office of the Deputy Registrar of the Co-operative Societies. The complainant's case was not that he had made two applications, one to the Assistant

Registrar of the Co-operative Societies, and the other to the Deputy Registrar of the Co-operative Societies.

5 The learned Special Judge also observed some discrepancies between the evidence of the complainant, the panch and the Investigating Officer, in the matter of acceptance of the tainted amount by the accused.

6 According to the complainant, the tainted amount was directly put by him in a pocket of the handbag, which the accused was having. According to the complainant, the accused asked him to put the amount in that bag, which he did. Going by this version, there ought not to be any traces of anthracene powder on the finger tips of the accused, but the Investigating Officer speaks of there being such traces.

7 The learned APP pointed out that the observations made by the learned Special Judge with respect to the invalidity of the sanction, are not sound. Though there is some substance in

this, and though the entire reasoning of the learned Special Judge cannot be accepted on the whole, the view of the matter, as taken by him, leading to the acquittal, appears to be a reasonable and possible view.

8 Under such circumstances, grant of leave to appeal would be futile.

9 Leave refused.

10 The application is rejected.

(ABHAY M. THIPSAY, J.)