

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.130 OF 2015

The State of Maharashtra .. Applicant
Versus
Sanjay @ Sanju Madhukar Mande .. Respondent

Mrs.P.P. Bhosale, APP for the applicant State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 7th MARCH, 2016

P.C. :

1 The respondent was prosecuted on the allegation of having committed offences punishable under Section 7 and section 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988. The learned Special Judge, Raigad, Alibag, after holding a trial, acquitted him. The State of Maharashtra is aggrieved by the said order of acquittal and is, by the present application, seeking leave to Appeal therefrom.

2 I have heard Mrs.P.P. Bhosale, learned APP in support of the application. With her assistance, I have gone through the application and the impugned judgment, copy of which is annexed to the application.

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

4 The prosecution case, as put forth before the trial Court, was that the complainant Mahendra Tiwari, an Estate Agent was authorized by one Laxminarayan Sharma to obtain sale permission under section 32(G) of Bombay Tenancy and Agricultural Lands Act in respect of certain lands situated at Village Pimpaloli, Taluka Karjat. The power and authority to give such permission vested in the Sub-divisional Officer, Panvel. The accused who was working as a clerk in the office of the Sub-divisional Officer, Panvel allegedly demanded a bribe of Rs.2,40,000/- from the complainant for having files concerning the permission, cleared.

5 The prosecution case was, throughout, that the accused had been demanding bribe by saying that it was required to be paid to the Sub-divisional Officer Shri Mukesh Kakade. Mr.Mukesh Kakade was not made the accused, nor examined as a witness during the trial.

6. The learned Special Judge considered the evidence with respect to the alleged demand of bribe made by the accused from time to time, and came to the conclusion that the same was not satisfactory.

7. Among other things, the learned Special Judge observed that the trap was laid on 6th October 2008, but the files in question had already been cleared by the sub-divisional Officer on 4th October 2008, *and that the complainant knew the same.*

8 The appreciation of evidence, as done by the learned Special Judge, and the conclusion arrived at by him, does not seem to be suffering from any infirmity or error. In any case, the view of the matter, as taken by the learned Special Judge is a possible view.

9 It is well settled that in such a situation, grant of leave to Appeal, would be futile.

10 Leave refused.

11 Application is rejected.

(ABHAY M.THIPSAY, J)