

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.137 OF 2015

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

PRABHAKAR VYANKATRAO PATIL)...RESPONDENT

Smt.PPBhosale, APP for the Applicant - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 8th MARCH 2016.

P.C. :

1 The respondent was prosecuted on the allegation of having committed the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act (P.C.Act). The learned Special Judge, Pune, 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 file appeal therefrom.

2 I have heard Smt.P.P.Bhosale, the learned APP for the State. With her assistance, I have gone through the impugned judgment and the relevant evidence. I have also been taken through the First Information Report (FIR).

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, Vinod Pangul – the complainant – was in a business of repairing and stamping of electronic weights and measures in the name of “Om Scale Company.” He was having the necessary license issued by the Food and Civil Supply Department, Government of Maharashtra. On 1st March 2014, he had carried out the work of verification and stamping of the license through the accused, who was, at the material time, working as Inspector of Weights and Measures. That, when the complainant had approached the accused for obtaining the

Stamping Certificate, the accused had demanded an amount of Rs.150/-. The case of the prosecution was that the accused was demanding an amount of Rs.150/- per certificate, and had similarly demanded amounts from neighbouring shop owners. The complainant had pleaded on behalf of the other shop owners that they were poor and had requested the accused to scale down the demand. On 11th March 2014, the complainant had met the accused and when the accused had made the demand of illegal gratification, the complainant had reported the matter to the Anti Corruption Bureau (ACB).

5 That, a trap was thereafter laid, and when the accused allegedly accepted the tainted amount, he was apprehended.

6 Three witnesses were examined during the trial, the first being the complainant, the second being one of the panchas who was present at the time of the trap, and the third is the trap laying / Investigating officer.

7 The learned Special Judge doubted the case of the prosecution for a number of reasons. The first seems to be that the record of the conversation, as made by a Digital Voice Recorder, did not tally with the oral account of the conversation between the complainant and the accused, as given by the complainant. Secondly, the learned Special Judge doubted whether the complainant had indeed met the accused on 11th March 2014, on which date, the accused is said to have made a demand for illegal gratification. It is because, when the complainant and the accused met on 12th March 2014, the complainant said “sorry” to the accused for not attending the marriage of the daughter of the accused, which was performed on 22nd February 2014. The learned Special Judge held that, obviously, the complainant had met the accused for the first time after 22nd February 2014.

8 The learned Special Judge also observed that even the panch witness was of the view that the accused was meeting the complainant for the first time after 22nd February 2014.

9 The doubt felt by the learned Special Judge on the truth of the prosecution case cannot be said to be unreasonable. In any case, the view of the matter, as taken by the learned Special Judge, is a *possible view* of the matter.

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

11 Leave refused.

12 The application is rejected.

(ABHAY M. THIPSAY, J.)