

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****CRIMINAL APPEAL NO.149/2002**

(The State of Maharashtra through Anti Corruption Bureau, Yavatmal..vs..Vasant Namdev Mule and anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S. S. Doifode, A.P.P. for appellant.

Mr. A. V. Bhide, Advocate for respondent.

CORAM : A. B. CHAUDHARI, J.

DATE : FEBRUARY 5, 2016

This appeal is filed against judgment and order dated 10.12.2001 passed by Special Judge, Pusa and thereby acquitting the respondents of an offence punishable under Sections 7, 13 (1) (d) read with Section 13 (2) of the Prevention of Corruption Act.

Respondent no.1-Vasant Mule who was Tahsildar is reported to be dead and hence appeal against him is dismissed as abated.

Mr. A.V. Bhide, Advocate appears for respondent no.2-Shankar Harankhede, who is clerk at the office of the Tahsildar. The evidence brought by the prosecution is that on the earlier day, there was a talk of Tahsildar and the complainant, as a result of which, the complainant was to bring Rs.500/- and pay to Tahsildar-Vasant Mule (respondent no.1). Accordingly, the complainant arrived and started putting his hand in his pocket when Tahsildar told him by sign to give money to respondent no.2-Shankar Harankhede. There is no evidence to show that respondent no.2 knew about his

role to accept the money from the complainant on behalf of respondent no.1-Tahsildar. Abruptly, complainant was told to hand over the amount by respondent no.1 and the same was handed over to respondent no.2. The element of *mens rea* is *sine quo non* for such offence but then the prosecution ought to have brought some evidence to show *mens rea qua* respondent no.2. Merely because on the gesture made by respondent no.1 to abruptly hand over the amount of Rs.500/- to respondent no.2 and then the complainant handed over the amount to respondent no.2, that by itself, without any additional or other evidence cannot bring home the offence of abetment on the part of respondent no.2-Shankar Harankhede.

In that view of the matter, the trial Judge has rightly recorded the order of acquittal of respondent no.2, which which I do not find any fault.

In the light of the above, following order is passed.

ORDER

(i) Criminal Appeal No.149/2002, so far as respondent no.1-Vasant Namdev Mule is concerned is abated and disposed of accordingly.

(ii) Criminal Appeal No.149/2002 against respondent no.2-Shankar Chindhuji Harankhede is dismissed.

JUDGE