

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [APL] No. 21 of 2016
[Amol Kamleshwar Bharti & two others Vs. State of Mah.]

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

Court's or Judge's orders

Mr. V.L. Navlani, Adv., for the applicant.
Mr. Dhumale, APP for respondent.

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CORAM : A.B. CHAUDHARI, J.

DATE : 25th January, 2016.

Heard learned counsel for the rival parties.

Learned counsel for the applicants, citing Section 7 of the Prevention of Corruption Act, has vehemently contended that the applicants were admittedly not in any employment attracting the ingredients of the definition of a "Public Servant". He then submitted that though Section 7 also includes the persons expecting to be Public Servants, the charge-sheet nowhere shows that the case of the applicants would fall even in that category. He also invited my attention to Explanation to Section 7, and submitted that at any rate, even as per the Explanation, the applicants would not fall within the meaning of the term "expecting to be a Public Servant". In the alternative, he submitted that at the most, it could

be said to be cheating as per the Explanation. But then, the charge-sheet has not been filed for the said offence.

Upon perusal of the record and the impugned order, I find that there may be substance in what the counsel for the applicants contends. But that is a matter to be found out from the evidence, which would be recorded, and, in the absence of evidence, it is difficult to pre-judge, at this stage, that the applicants would not fall within the definition of Section 7 of the Act. Ultimately, if, on sifting of evidence, it is found that the applicants' case does not fall within the meaning of Section 7, the result would be obvious. But then, in my opinion, to jump to the conclusion at this stage without recording of evidence would not be legal and proper. The best course for the applicants is to face the trial. In that view of the matter, I make the following order:-

Criminal Application [APL] No. 21 of 2016 is rejected. Trial is expedited.

Judge