

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

CRIMINAL APPLICATION NO.1095 OF 2016

THE STATE OF MAHARASHTRA

.. Applicant

VERSUS

SANDIP VASRAM CHAVAN

.. Respondent

...

APP for Applicant : Shri. S.P. Tripathi
Advocate for Respondents : Shri. S.S. Choudhari

...

**CORAM : PR. BORA, J.
Dated: August 16, 2017**

PER COURT :-

. The State has challenged acquittal of respondent recorded in Spl. (A.C.) Case No.3/2014 decided by the Additional Sessions Judge at Osmanabad on 25.11.2015. The respondent was prosecuted for the offences punishable under Sections 7, 13 (1)(d) r.w. 13 (2) of Prevention of Corruption Act, 1988 and 201 r.w. 511 of Indian Penal Code.

2. Shri Tripathi, the learned APP submitted that, the learned trial Court has acquitted respondent mainly on the ground that, the informant did not support the case of prosecution. The learned APP

pointed out that, the evidence on record was otherwise sufficient to prove the demand and accept of the bribe amount.

3. Shri S.S. Choudhari, the learned Counsel appearing for respondent has supported the impugned Judgment. The learned Counsel submitted that, no such evidence has come on record so as to hold the respondent guilty for the offences charged against him. The learned Counsel further submitted that, it has specifically come on record that, for the work for which the demand was said to have been made by respondent was already done and as such there was no reason for respondent to ask any amount by way of bribe for the said purpose and there was no possibility of the informant paying any amount for work, which was already done. The learned Counsel further submitted that, the evidence on record clearly suggests that, respondent did not accept the amount of bribe, but it was kept by the informant in the house of the respondent on cot. The learned Counsel submitted that, considering overall evidence, the learned trial Court has rightly acquitted the accused and no case is made out by the State to file an appeal against the said order.

4. I have carefully considered the submissions made by the learned APP and learned Counsel appearing for respondent i.e.

original accused. Perusal of the impugned Judgement reveals that based on some answers given by the informant in his cross examination an inference has been drawn by the learned trial Court that, respondent did not accept the amount of bribe. However, if the evidence of panch witness as well as Investigating Officer is perused, the possibility of acceptance of bribe amount by the respondent is difficult to be ruled out. Chemical Analyzer's report clearly indicates that, the shinning was noticed on the fingers of respondent as well as the other articles, which were recovered from the pocket of respondent. The evidence of panch witness is also indicative of the fact that, there was a demand from the accused i.e. respondent and according to the said demand, the amount was paid. The arguable points are, thus, raised in the appeal. I am, therefore, inclined to allow the present application. Hence, the following order.

ORDER

1. The application is allowed.

(P.R. BORA, J.)

ggp