

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3 OF 2017

The State of Maharashtra	...Applicant
Versus	
Dashrath Gangaram Patil and Anr.	...Respondents

Mr.M.R.Tidke,APP for the Applicant.
Dushyant S.Pagare for Respondent Nos.1 and 2

CORAM: SMT.ANUJA PRABHUDESSAI, J
DATED: 18th AUGUST, 2017

PC:-

1. Perused the Application. The State has sought leave to challenge the judgment dated 31.05.2016, whereby the learned Special Judge, Gadhinglaj, Dist.Kolhapur has acquitted the Respondents of the offences punishable under Sections 7, 12, 13(2)(D) R/W 13 (2) of Prevention of Corruption Act, 1988.

2. Heard the learned APP for the State and learned Counsel for the Respondents. I have perused the records.

3. It is not in dispute that the Respondents herein are the public servants. The evidence of PW-1 reveals that he had taken contract of installing/laying water taps and pipelines and construction of gutter and road of village Devkandgaon under the Yashwant Gram Samruddhi Yojana for Rs. 5,62,000/-. An amount of Rs.3,45,000/- was paid to him and the balance amount of Rs.2,17,000/- had remained to be paid. PW-1 has claimed that he contacted the Respondents for payment of the balance amount, the Respondents demanded bribe of Rs.25,000/-. He reported the matter to the office of ACB. PW-3 Madhukar Shinde (PI), who at the relevant time was the DY.S.P at the ACB, recorded the statement of PW-1. Pre-trap was arranged. Panchanama was drawn in presence of Panchas. Evidence of PW-1 also indicates that at the instance of the Respondent No.1 he had paid the money to the Respondent No.2. The Respondent No.2 was caught while accepting the said amount. Subsequently, the currency notes which were paid as bribe were seized.

4. The learned Judge, has acquitted the accused because of some minor contradictions in the evidence of PW-1 and 2 who had accompanied PW-1 at the time of payment of the said amount of Rs.25,000/-. The learned Judge has also held that the prosecution had not proved the voice sample panchanama.

5. Prima facie, it appears that the learned Judge has ignored the material evidence and given undue importance to minor discrepancies. Under the facts and circumstances, arguable points are raised. Leave is granted to challenge the order of acquittal dated 31.05.2016 in Special Case No.2 of 2010. Appeal be registered.

6. The learned Counsel for the Respondents waives service. Respondents to furnish fresh bonds of Rs.20,000/- (Rs.Twenty Thousand only) to the satisfaction of Special Judge, Gadhinglaj, Dist.Kolhapur, within two weeks.

7. Call for further records and proceedings. Matter will come up for final hearing as per its turn.

(ANUJA PRABHUDESSAI, J.)