

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 60 OF 2014
(For Leave to file Appeal)**

The State of Maharashtra	Applicant
Versus	
Bhimrao Shankar Dhonde	Respondent

Mr. H.J. Dedhia, APP for the State.

Mr. B.S. Mahamulkar with Rahul D. Oak with Sidhesh S. Shetye
for the respondent.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 28th NOVEMBER, 2017***

P.C. :

1. By this application, the State has sought leave to challenge the judgment dated 28th November, 2013 whereby the learned Special Judge, Greater Bombay has acquitted the respondent of offence punishable under section 7 of Prevention of Corruption Act, 1988.
2. Heard Mr. H.J. Dedhia, learned APP for the applicant and Mr. B.S. Mahamulkar, learned counsel for the respondent. Perused the records. Considered the submissions advanced by the learned counsels for the respective parties.
3. The case of the prosecution in brief is that sometime on 17th August, 2009 or 18th August, 2009, the respondent, who at the relevant time was the labour inspector, had visited the grocery shop of PW1-Valji Patil and left the message with his employee to call him.

Subsequently, the respondent had called the complainant and told him to employ his person and hand over the salary to him. PW1 expressed his inability to employ any additional person. Irrked by persistent demands of respondent, PW1 lodged a report (exhibit-13) at Anti-Corruption Bureau, Mumbai. The investigating agency, in order to verify the genuineness of the report, instructed PW1 to make a phone call to the respondent. The conversation between PW1 and the respondent was recorded. Respondent did not make any demand but told PW1 that he would visit his shop on the next day.

4. The case of the prosecution is that the respondent had visited his shop on 27th August, 2009 and told PW1 that out of ten employees, he should record names of only three employees in the prescribed register so as to avoid payment of 41% of levy charges. The respondent demanded Rs.50,000/- to perpetuate said illegality. The demand was further reduced to Rs.35,000/-. Upon confirming the recorded conversation, first information report (exhibit-16) was registered and trap was laid. The trap failed as the accused did not come to collect the money.

5. The records reveal that the respondent had not demanded bribe on 26th August, 2009, when the investigating agency had sought to verify the genuineness of the report lodged by PW1. Hence, the report was sought to be verified again on 27th August, 2009. Though a pancha witness had accompanied a technician to the shop of the complainant (PW1) on 27th August, 2009, they were not present in the office when

the respondent had allegedly demanded the bribe amount. Thus the very purpose of verification was frustrated.

6. Though in the complaint PW1 had alleged that the bribe was demanded for avoiding payment of 41% of levy charges, his testimony before the Court is totally silent about the reason for demanding bribe. As regards recorded telephone conversation, the learned Special Judge has not relied upon the same for want of compliance of section 65(B) of Indian Evidence Act. Furthermore, the prosecution had also not examined the employee with whom the respondent had allegedly kept a message for the complainant. The evidence of the complainant was therefore, not corroborated by any independent witness. The learned Special Judge, after appreciating the evidence of the complainant, has held that the complainant has failed to prove the demand.

7. Having gone through the evidence, in my considered view, the findings recorded by the learned Judge are based on the evidence on record and are neither illegal nor perverse. The view taken by the learned Judge is probable. Hence, the learned Judge was justified in acquitting the respondent/accused. The order does not warrant interference. Hence, application for leave to appeal is rejected.

(SMT. ANUJA PRABHUDESSAI, J.)