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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.1379 OF 2016

Chandrakumar Nagnath Vishwakarma ...Applicant
vs.
State of Maharashtra & anr. ...Respondents

Mr.Prashant Pandey i/b Mr.Sunil Prem Lalla for the
Applicant
Mr.K.V.Saste, APP for the respondent No.1

CORAM : A.S.OKA, &
SMT.ANUJA PRABHUDESSAI, JJ.
DATE : FEBRUARY 14, 2017

P.C.:

1 Heard the learned counsel for the applicant. The prayer is for quashing the FIR filed for offence under section 7, 13 (1) (d) of the Prevention of Corruption Act, 1988. The contention of the prosecution is that the petitioner will fall in the category of public servant covered by sub clause (xii) of clause (c) of section 2 of the said Act being an employee of an educational institution receiving or having received any financial assistance from the Central Government or State Government or local authority or other public authority. The learned APP is also relying upon sub clause (xi) of clause (c) of section 2 of the said Act. The learned counsel for the applicant is relying upon the documents annexed to the application for showing that institution in which the petitioner is employed is a self financing institution and therefore, there is no question of

getting any assistance from the Government or any public authority.

2 Whether the institution in which the applicant is working is receiving or has received any financial assistance from the Central Government or the State Government or local authority or public authority is a matter of evidence. As far as the letter at Exhibit-h is concerned, firstly, it is of 3rd August 2016 and the trap on the basis of which the FIR is registered was of 7th September 2015. Moreover, it is a letter issued by the Director of Technical Education which is an Officer of one department of the State Government. The information displayed on the website cannot be said to be conclusive on the issue whether the applicant is a public servant. Remedy under section 482 of the Code of Criminal Procedure, 1973 is purely discretionary which has to be invoked sparingly.

3 In the present case, for deciding the issue which is raised by the applicant, recording of evidence will be necessary.

4 Therefore, we decline to entertain this application under section 482 of the Code of Criminal Procedure, 1973. The application is rejected. However, we make it clear that all the issues raised by the applicant are kept open which will be decided by the Special Court at appropriate stage.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)