

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

**CRIMINAL APPLICATION NO. 135 OF 2015
(for Leave to file Appeal)**

The State of Maharashtra	Applicant
Versus	
Ashwin Parshuram Shahane & Anr.	Respondents

Mr. S.R. Agarkar, APP for the appellant/State.
Mr. Adwait Bhonde i/b. Rohan Nahar for resp. no.1.
Mr. Ganesh Jagdale, Police, B.No.7362, ACB, Pune.
Mr. Arun Dattu Ghodke, PI, ACB, Pune.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 08th DECEMBER, 2017***

P.C. :

1. By this application, the State has sought leave to challenge the judgment dated 19th August, 2015 in Special Case No.23 of 2014, whereby the learned Special Judge (Anti-Corruption), Pune has acquitted the aforesaid respondents of offences punishable under sections 7, 13(1)(d) r/w. 13(2) of the Prevention of Corruption Act, 1988.
2. Heard the learned counsel for the applicant and the learned APP for the State. Perused the records and considered the submissions advanced by the learned Counsels for the respective parties.
3. The case of the prosecution in brief is that the complainant-Rahul Dhawale had applied for electricity connection to the M.S.E.D.C.L.,

Bhor. It is the case of the prosecution that the respondent no.1 who is the Junior Engineer in the M.S.E.D.C.L. and a public servant within the meaning of section 2(c) of Prevention of Corruption Act had introduced the complainant to the respondent no.2 who is a wireman. The respondent no.2 had agreed to carry out the work for Rs.26,000/-. The complainant had alleged that the respondent no.1 had demanded bribe of Rs.25,000/- which was subsequently reduced to Rs.12,000/- and told the complainant that the work would not proceed till the said amount was paid.

4. The complainant approached the Anti-Corruption Bureau on 12th December, 2013 and lodged the complaint. After verifying the genuineness of the complaint, offence was registered and trap was laid and respondent no.2 was caught while accepting the bribe amount. After completion of the investigation, charge sheet was filed against both the respondents for committing the aforesaid offences under the Prevention of Corruption Act.

5. The learned Special Judge, after considering the evidence on record had acquitted the accused. The reasons stated in paragraph 35 of the judgment clearly indicates that there is no evidence on record to show the involvement of the respondent no.1 in demanding or accepting the bribe amount. The learned Judge has observed that the evidence on record indicates that the respondent no.1 had only introduced the complainant to the respondent no.2 who is a wireman, to carry out his electricity work. The evidence further disclosed that the complainant had not made payment to the respondent no.2 and

therefore, the respondent no.2 had not given the test report, which was necessary for submitting the quotation.

6. The learned Special Judge has further held that though the evidence of the complainant shows that he had called the respondent no.2 before making the payment, his testimony is not corroborated by the shadow witness. Furthermore, the conversation between the complainant and the respondent no.2 was also not recorded in the voice recorder. The learned Judge has also held that there was a possibility of false implication in view of the fact that the complainant was in constant touch with Keshav Bandal who is also a wireman and who had rivalry with the respondent no.2.

7. Having considered the submissions advanced by the learned counsels for the respective parties and upon perusal of the evidence on record, does not prove that the respondent no.1, who is a public servant, had made any demand or that he had accepted the bribe amount. On the contrary, PW2- Nilesh Deshmukh, who was one of the pancha witness has deposed that he had accompanied the complainant for verification of the complaint. He has deposed that the complainant had had asked the respondent no.1 “how much” and that respondent no.1 had responded by saying “as per the agreement” “I will not intervene in it”. He has further stated that till pre-trap panchnama, the complainant had not contacted the respondent no.1 in his presence. There being no cogent evidence of either demand or acceptance of bribe by the public servant, the accused/respondents could not have been guilty of offences under Prevention of Corruption Act.

8. Considering the above facts and circumstances, in my considered view, the findings recorded by the learned Special Judge are based on evidence on record. The findings are neither perverse nor illegal. Hence, the learned Judge was justified in acquitting the respondents. The order does not warrant interference. Hence, the application for leave to appeal is rejected.

(SMT. ANUJA PRABHUDESSAI, J.)