

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.136 OF 2015

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

PANDURANG BHIKAJI DORUGADE)...RESPONDENT

Mr.P.H.Gaikwad-Patil, APP for the Applicant – State.

Ms.Gulestan Dubash, Advocate for the Respondent.

CORAM : A. M. BADAR, J.

DATE : 4th JANUARY 2017.

P.C. :

1 Heard both sides. Perused the impugned judgment and order of acquittal as well as evidence of complainant, panch witnesses and the Investigating Officer.

2 It was argued that case of the prosecution is inherently improbable. Initial demand is not proved. At the time of the trap, evidence of complainant shows that there was no demand, whereas, evidence of panch witness shows that there was demand,

and as such, evidence of prosecution is contradictory. My attention is also drawn to the evidence regarding voice sample allegedly collected by the prosecution and it was argued that, at that point of time, the complainant was in custody.

3 *Prima facie*, it is seen that tainted currency notes were recovered from the accused. According to the prosecution case, respondent no.1 Police Hawaldar who was concerned with the investigation of the crime registered against the complainant had demanded illegal gratification amounting to Rs.5,000/- for superior officer and Rs.2,000/- for himself. Arguable points seem to be there as benefit of doubt was granted to respondent / accused while acquitting him of the alleged offence. Hence, leave granted.

4 Appeal is admitted. The application for leave to appeal be considered as Memo of Appeal. Notice to respondent. The learned counsel appearing for the respondent waives notice on admission of appeal. Call for Record and Proceedings.

5 In the meanwhile, action under Section 390 of Code of Criminal Procedure before the trial court.

(A. M. BADAR, J.)