

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.140 OF 2016

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

VISHNU DASHRATH SONTAKKE AND ANR.)...RESPONDENT

Ms.V.S.Mhaispurkar, APP for the Applicant – State.

CORAM : A. M. BADAR, J.

DATE : 14th MARCH 2017.

P.C. :

1 This is an application for grant of leave to appeal for challenging the judgment and order of acquittal of the respondent recorded by the learned Special Judge, (Anti Corruption), Pune, on 20th July 2015, thereby acquitting applicants for offence punishable under Sections 7, 8, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988.

2 Heard learned APP appearing for the State and perused deposition of witnesses examined by the prosecution.

Initial demand was made to PW1 Mangesh Kashid – the complainant and it was got verified through shadow panch PW2 Sudam More. Prima facie, it is seen that evidence of both these witnesses is consistent in nature. However, the learned trial court came to the conclusion that there is no direct evidence on the point of demand verification from the independent panch witness. Perusal of evidence of shadow panch PW2 Sudam More and particularly paragraph 5 thereof shows direct oral evidence of the shadow panch regarding demand verification. Initial demand cannot be in presence of official panch witness. In this view of the matter, case for grant of leave is made out. Therefore the order :

- i) Leave, as prayed, is granted.
- ii) Admit.
- iii) The application for leave to appeal be treated as Memo of Appeal.
- iv) Issue notice to respondent.
- v) Call for Record and Proceedings.
- vi) In the meanwhile, action under Section 390 of the Code of Criminal Procedure before the learned trial court.

(A. M. BADAR, J.)