

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Appeal No.414 of 2002

(State .vs. Ramesh Janardhan Meshram)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Ms K.S.Joshi, A.P.P. for Appellant.
None for the Respondent.

CORAM : B.R. Gavai, J.

DATED : May 08, 2017.

Heard.

The present Criminal Appeal challenges the order of acquittal as recorded by the learned Judge of the Special Court, Buldana, dt.21.5.2002 in Sessions Case No.6 of 1997 thereby acquitting the accused for the offence punishable under Section 7 and 13(1) (d) r/w Section 13 (2) of the Prevention of Corruption Act, 1988.

The respondent/accused, at the relevant time, was working as a District Manager of Lokshahir Annabhau Sathe Vikas Mahamandal, Buldana (hereinafter referred to as '**Corporation**' for the sake of brevity). The complainant wanted to start the business of Xerox machine at Buldana. Since the Corporation was established for assisting the persons from Matangi community for self-

employment, the respondent/accused had applied to the Corporation for getting assistance and loan. It is the prosecution case that, for sanctioning the respondent assistance and loan of Rs.1,00,000/-, the accused demanded an amount of Rs.1,000/-, which was subsequently reduced to Rs.500/-. Since the complainant did not want to make payment, he lodged complaint with the Anti Corruption Bureau. A trap was led. In the trap, the accused was caught accepting the amount red handed.

At the conclusion of the trial, the learned Special Judge framed the charges. The accused pleaded not guilty and claimed to be tried. At the conclusion of the trial, the learned trial Judge acquitted the accused. Hence, the present appeal.

Ms K.H.Joshi, learned A.P.P. submits that the learned trial Judge has grossly erred in acquitting the accused when the learned trial Judge has himself come to the conclusion that the prosecution has proved that the accused was accepting the illegal gratification. She submits that when the prosecution has proved the trap, the demand and acceptance, the learned trial Judge was not justified in acquitting the accused only on hyper-technical approach.

Perusal of the Judgment of the learned trial Judge would reveal that though

the learned trial Judge has found that the prosecution has proved demand, acceptance and trap, he has found that the sanction was totally vitiated. It has been found that Haribhau Keruji Kedar (PW-4), who was the Sanctioning Authority, has granted sanction in a totally mechanical and casual manner.

By now, it is a settled law that grant of sanction u/s.19 of the Prevention of Corruption Act is not an empty formality. It is a settled law that the Sanctioning Authority itself must apply its mind to the material placed before it and come to a considered conclusion as to whether grant of sanction is necessary or not.

Perusal of the evidence of Haribhau Keruji Kedar (PW-4) would reveal that he has clearly stated in the examination-in-chief that his Office has received the papers from the Office of A.C.B., Nagpur along with blank sanction order. Perusal of his cross-examination would reveal that the papers received in his Office were scrutinized by his staff in his Office. He has further stated that the Manager Administration did that job and he has only signed the sanction order received from the A.C.B. Office and he has sent the papers back for further action. He has further stated as that was a Government work, he signed the sanction order and sent the papers back to A.C.B. Office.

It could thus be seen that the Sanctioning Authority has not applied his mind before awarding sanction for prosecution. In that view of the matter, it cannot be said that the view taken by the learned trial Judge is either perverse or impossible so as to warrant finding of acquittal. No case is made out for interference. The appeal is found to be without merits and as such, it is dismissed.

No order as to costs.

JUDGE