

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

CRIMINAL APPLICATION (APPA) NO. 266 OF 2017

(The State of Maharashtra, through P.S.O.P.S.Gadgenagar, Amravati..vs..Pramod Sheshrao Dhande
and another)

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

Court's or Judge's orders.

Smt.T.H.Udeshi, Addl.P.P. for applicant.

CORAM : V.M. DESHPANDE, J.

DATED : JUNE 28, 2017

1. Heard finally with the consent of Learned Addl.P.P. for applicant.

2. This is an application under Section 378(3) of Code of Criminal Procedure seeking leave to prefer an appeal against the judgment and order of acquittal dated 16/5/2016 passed by learned Special Judge(ACB), Amravati in Special (ACB) Case No.9/2013.

3. The respondents were prosecuted for the offence punishable under Sections 8 and 10 of Prevention of Corruption Act, 1988 on the allegations that accused no.1 being a private person obtained gratification for public servant accused no.2 to do favour to the complainant for official work. The prosecution was under obligation to prove that accused no.1 demanded and accepted the amount to influence accused

no.2 Bhimrao Bapurao Wakode to do the official work of first informant Prakash Deshmukh. The Court below noticed that when the trap was laid some private persons were inside the office to inspect the record, the fact which is admitted by the investigating officer. Therefore, in my view, the Court below has rightly reached to the conclusion that mere presence of accused no.1 inside the office of the Sub-Registrar at the time of trap cannot unnecessarily gives inference that accused no.1 had any nexus with accused no.2 Bhimrao. The Court below has also given thoughtful consideration to the discovery of stamp paper. The Court below also found that prosecution could not prove that accused no.1 informed the first informant that he is having close relations with public servant and could do work through such public servant buy using corrupt means. In the back drop of the available evidence on record, in my view, learned Judge of the Court below has rightly reached to the conclusion that the prosecution has utterly failed to prove its case. Learned Addl.P.P. could not demonstrate as to how any perversity is crept in the judgment of the Court below. It is not the case of the appellant before this Court that any available evidence was not considered by the Court below.

4. Merely because another view is possible that by itself is not sufficient to interfere with the judgment of the acquittal if the available evidence is correctly appreciated by the Court below.

5. In view of the matter, there is no reason to interfere with the judgment of the acquittal. The application is rejected. Consequently, the appeal is also rejected.

JUDGE

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