

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

REVISION APPLICATION (ST) NO.157 OF 2017

Solapur Municipal Corporation

... **Applicant**

V/s.

Bhagwat Balbhim Ingale & Anr.

... **Respondents**

Mr. I.M. Khairdi for the Applicant.

Mr. M.R. Deshpande for Respondent No.1.

Smt. Veera Shinde, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 23rd AUGUST 2018

P.C.:

1. The present application is directed against concurrent findings recorded by the two Courts below, thereby acquitting Respondent No.1 from the offence punishable under Section 409, 477-A of the Indian Penal Code.
2. The record indicates that Respondent No.1 was working in the Tax Department as Junior Clerk with the applicant Solapur

Municipal Corporation. It is the allegation against the Respondent No.1 that between 1997 to 1998 Respondent No.1 though collected tax from the tax payers and issued receipts in that behalf, failed to deposit an amount approximately Rs.5,11,017/- in the exchequer of the Corporation, and therefore, it is alleged that Respondent No.1 has committed defalcation of the said amount.

3. The record indicates that, most of the tax payers had issued cheques while depositing the said tax amount, which have been dishonoured on presentation. The evidence indicates that the applicant had issued receipts to the said tax payers prior to realization of the said cheques. It is the further allegation against the applicant that, he also collected certain amounts in cash, however, did not deposited it in the exchequer of the Corporation.

A perusal of the evidence would indicate that the prosecution has failed to substantiate the charge under Section 409 of the Indian Penal Code against the applicant by leading cogent evidence in that behalf and has further failed to prove the charge under Section 477-A of the Indian Penal Code. The Chief Judicial Magistrate, Solapur after recording evidence and after hearing the parties thereto was pleased to acquit Respondent No.1 from the charges framed against

him by the impugned Judgment and Order dated 30.04.2013 in RCC 526/2003. The appeal preferred by the State bearing Criminal Appeal No.101 of 2013 has been dismissed by the learned Additional Sessions judge, Solapur by its Judgment and Order dated 01.03.2016.

4. As noted hereinabove, the evidence on record clearly lacks in substantiating the charge framed against the applicant.
5. After perusing the record, this Court is of the considered view that both the Courts below have not committed any error either in law or on facts while passing the impugned judgment and order.
6. Revision Application is accordingly rejected.

(A.S.GADKARI, J.)