

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 38 OF 2018

The State of Maharashtra

....Applicant.

Vs.

Suraj Dadasaheb Hembade

....Respondent.

Mr. V.V. Gangurde, APP for the Applicant.

CORAM : A. S. GADKARI, J.

DATE : 19th APRIL, 2018.

P.C.:-

This is an Application under Section 378 (3) of Cr.P.C. for leave to file Appeal against the Judgment and Order dated 8th August 2016 passed by the learned Additional Sessions Judge, Barshi, District Solapur in Special Case No. 15 of 2014, thereby acquitting the Respondent from the offences punishable under Section 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

2 Heard the learned APP. Perused the record.

3 The evidence on record indicates that the prosecution has failed to prove the basic fact that, the Respondent in fact has made any demand of gratification from the first informant for releasing the

dumper/tipper loaded with sand. The evidence on record further indicates that, the evidence of first informant is not reliable and is creating doubt about its trustworthiness in the mind of the Court.

4 It is the settled possession of law that, the demand is *sine-qua-non* in a case of bribery and if the prosecution fails to prove the said fact of demand by adducing sufficient and cogent material thereby, proving the guilt of the accused beyond the reasonable doubt, benefit of doubt is required to be given in favour of the accused person.

5 After perusing the record, this Court is of the opinion that, the view adopted by the Trial Court is a reasonable and probable view in the facts and circumstances of the present case.

No case for grant of leave to file Appeal is made out.

6 Application is accordingly rejected.

(A.S. GADKARI, J.)