

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3 OF 2018

The State of Maharashtra

....Applicant.

Vs.

Shri. Sagar Shivaji Kamble

....Respondent.

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

Mr. Adwait Bhonde for the Respondent No.1.

CORAM : A. S. GADKARI, J.

DATE : 24th APRIL, 2018.

P.C.:-

This is an Application under Section 378 (3) of Cr.P.C. seeking leave to file Appeal against the judgment and order dated 29th September 2017, passed by the learned Additional Sessions Judge, Ichalkaranji, thereby acquitting the Respondent from the offences punishable under Section 7, 13(i)(d) r/w Section 13(2) of the Prevention of Corruption Act, 1988.

2 Heard the learned APP and the learned counsel appearing for the Respondent. Perused the record.

3 The evidence on record clearly indicates that the Prosecution has failed to prove the demand of Rs.5,000/- (Rupees Five

Thousand Only) by the Respondent beyond reasonable doubt. It is the settled position of law that the demand is *sine-qua-non* in the case of bribery. It is the case of the prosecution that, the Respondent had demanded a sum of Rs.5,000/- from the first informant and an amount of Rs.1,000/- was allegedly accepted by the Respondent. The link between the said two facts that is demand of Rs.5,000/- and acceptance of Rs.1,000/- has also not been proved by the prosecution beyond reasonable doubt. It further appears from the record that, the first informant had kept the alleged bribe amount of Rs.1,000/- on the table of the Respondent, which also creates doubt about its actual acceptance by the Respondent. The evidence on record further reveals that, the Respondent is successful in rebutting the presumption under Section 20 of the Prevention of Corruption Act, 1988. There are material contradictions and/or omissions in the evidence of the prosecution witnesses leading to inherent weakness in the prosecution case. It is clear that, the prosecution has failed to prove the case against the Respondent beyond the reasonable doubt by leading sufficient and cogent evidence.

4 After perusing the entire 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.

5 Application is accordingly rejected.

(A.S. GADKARI, J.)