

Nalawade

THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 8 OF 2018

Pollution Control Committee ..Applicant.

vs.

M/s. Daman Hospitality Pvt. Ltd. & ors. ..Respondents.

Mrs. P.H. Kantharia for the Applicant.

Mr.A.R.Kapadnis, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 27th March, 2018

P.C.

1. This is an application under Section 378(4) of the Cr.PC. for leave to file appeal against the Judgment and Order dated 14.7.2017 passed by the Chief Judicial Magistrate, Daman in RCC No.37/2010 thereby acquitting the respondents for the offence punishable under Section-15 and 16 read with Section 19(a) of the Environment (Protection) Act, 1986.
2. Heard the learned Special PP at length and perused the entire record.
3. It was the allegation against the respondent that, without obtaining Environment Clearance Certificate from the Competent Authority they proceed to start with the construction work at the site in question and in the premise the complaint was filed. The record clearly indicates that during the pendency of the said complaint and before the pronouncement

of the impugned Judgment and Order the respondent produced the said clearance certificate on record. It appears from the record that the respondent has raised a plea that they were not aware of the fact that the said certificate it was necessary before actually starting the construction work and in the alternative that though they applied for the said certificate was not received by them before the commencement of the construction. The learned Special PP fairly pointed out the fact that even before the lodgment of the complaint the said certificate was produced by the respondent. In view of the fact that before the pronouncement of the impugned Judgment and Order the respondents have produced the said clearance certificate before the Trial Court, benefit of doubt has to be given to the respondents.

4. 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 is made out.

5. Application is accordingly rejected.

(A.S.GADKARI, J.)