

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

CRIMINAL REVISION APPLICATION NO. 263 OF 2017

Dipak Balnath Bhitade

...Applicant

Versus

State of Maharashtra & Anr.

...Respondents

.....

Mr.Satyavrat Joshi for the Applicant.

Mr.Ashutosh Kumbhakoni, Advocate General a/w. Mr.A.R.Patil for
Respondent No.1-State.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: DECEMBER 12, 2018**

P.C.:

1. This Criminal Revision Application is directed against the order dated 30th March, 2017 passed by the learned Special Judge (A.C.B), Raigad-Alibag, thereby rejecting the application below exhibit 15 in Special (ACB) Case No. 15 of 2016.

2. The applicant/accused is prosecuted for the offence punishable under sections 7, 12, 13 (1) (d) read with 13 (2) of the Prevention of Corruption Act, 1988 ('the said Act') in C.R.No. 04 of 2014 of Kharghar Police Station.

3. It is a case of the prosecution that on 18th February, 2014, a demand of money was made by co-accused to the complainant Mr. Harendra Rambrij Yadav, who is a vegetable vendor. A demand of money was made by Mr.Deshmukh, Police Inspector of Kharghar Police Station. The applicant/accused, who was API at Kharghar Police Station, has demanded bribe of Rs. 6,000/- for allowing the complainant to park his handcart. Mr.Deshmukh, PI of Kharghar Police Station directed the complainant to handover money to the applicant/accused. The applicant/accused directed the complainant to give money to one person, who used to sell sandwiches. The police laid a trap on 20th February, 2014. Pursuant to the said trap, the present applicant/accused and Mr. Deshmukh, PI were arrested.

4. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent. He has further submitted that there is no evidence against the applicant/accused, neither he did demand nor did he receive money from the complainant. He has further submitted that no material is shown in the recorded conversation between the complainant and the applicant/accused.

He has further submitted that the applicant/accused being a public servant cannot be held as an abettor under section 12 of the said Act, and for want of sanction under section 19 of the said Act. He has further submitted that Mr.Deshmukh, PI of Kharghar Police Station has demanded money and the applicant/accused has not played any role in this transaction.

5. The learned APP while opposing the Revision Application, has relied on the recorded conversation, which took place between the first informant, the brother of the first informant and the applicant/accused. He has submitted that the person who is selling the vegetables has accepted money. There is evidence against the applicant/accused under the said Act.

6. Perused script of the recorded conversation and the F.I.R. It is true that the applicant/accused has not demanded or accepted bribe from the complainant. However, there is material on record showing that the applicant/accused had knowledge that the amount is bribe and he has *prima facie* facilitated the transaction. Hence, it is not a case for discharge.

7. In the case of ***Parkash Singh Badal and Another Versus State of Punjab and others.***, reported in ***(2007) 1 SCC 1***, the Supreme Court has held that a public servant can be an abettor and can be prosecuted under section 12 of the said Act and sanction under section 19 of the said Act is not required to prosecute the abettor, who can be a public servant also. Hence, Revision Application is rejected. The trial is expedited.

(MRIDULA BHATKAR, J.)