

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.493 OF 2015

Balasaheb Bhagwan Patil Applicant
Vs.
The State of Maharashtra & Ors. Respondents

Mr. A.Y. Sakhare, Senior Advocate I/by Mr. Harshad E. Palwe
for the applicant.

Mr. K.V. Saste, Additional P.P. for Respondent no.1- State
Mr. Nitin R. Shah for Respondent no.3.

Coram : R.M. Savant AND
Sarang V. Kotwal, JJ

Date : 7th March, 2018

P.C.

1 The above application has been filed for quashing of the charge-sheet bearing No. II- 1/15 dated 22nd January 2015 registered at Kopri police station, Thane. The said charge-sheet is arising out of the F.I.R., which was registered by the Anti Corruption Bureau, Thane under Sections 8, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988. The incidents have allegedly taken place between 12th February 2015 and 28th

February 2015. The applicant herein is the Sub-Inspector of State Excise and was at the relevant time posted in the Mobile Flying Squad of the State Excise. The F.I.R. is registered at the behest of the complainant whose vehicle with spurious liquor was accosted by the flying squad of the applicant.

2 It is alleged against the applicant that the applicant had made demand of illegal gratification to the tune of Rs.40,000/-. The charge-sheet, which has been filed contains the transcript of the conversation between the complainant i.e. the person whose vehicle was accosted and the applicant transcript prima facie discloses the demand of Rs.40,000/- by the applicant for releasing the car of the complainant.

3 The quashment of the charge-sheet is sought on the ground that the granting of sanction against the applicant is malafide as the applicant himself was a complainant in respect of another F.I.R. registered against his departmental colleagues one Anchule and one Dhanshetty for demanding an amount of

Rs.20.00 Lacs as an illegal gratification for seeing to it that the applicant is not suspended pursuant to the F.I.R., which was lodged against the applicant.

4 In paragraph 'N' of the petition, the averments are appearing wherein it is sought to be propounded that the said Anchule and Dhanshetty were acting at the behest of the then Minister of Excise, who was the competent authority. The filing of the F.I.R. is therefore questioned on the ground that the same is malafide and that no such demand was ever made by the applicant. In support of the relief of the quashment of the F.I.R., the factum of the trap led against the applicant having been failed is sought to be relied upon. We have with the assistance of the learned Senior Advocate, Mr. A.Y. Sakhare appearing for the applicant and the learned Additional P.P., Mr. K.V. Saste have gone through the relevant material, which is part of the charge-sheet. At this prima facie stage, we would not be in a position to record a finding one way or other whether the granting of sanction against the applicant was by way of

a malafide action on the part of the authorities as the applicant was responsible for the trap in which his two departmental colleagues were found accepting illegal gratification to the tune of Rs.18.00 Lacs. Learned Senior Advocate appearing on behalf of the applicant also seeks to contend that to bring home the charge under the relevant provisions of the Prevention of Corruption Act, it is necessary that there should both demand and acceptance of illegal gratification.

5 We are afraid that we would not be in a position to accept the said proposition having regard to the language in which Section 7 of the Prevention of Corruption Act is concerned. In so far as an offence under Section 7 is concerned, the same only contemplates a demand being made by the public servant. In our view therefore, it is not possible to accept the contentions raised on behalf of the applicant by the learned Senior Advocate. We have refrained ourselves from making any elaborate observations or comments on merits lest it affects the

applicant at the trial. No case for invocation of our jurisdiction under Section 482 of Cr.P.C. is however made out.

6 The Criminal Application is accordingly dismissed.

(Sarang V. Kotwal, J.)

(R.M. Savant, J.)