

Dond

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

CRIMINAL APPLICATION NO. 109 OF 2016

The State of Maharashtra

..Applicant

Vs

Prabhakar Ramchandra Rodage

..Respondent

Mr. V.V. Gangurde for Applicant/State.

Mr. Sunil Kale a/w Omkar Nagvekar for Respondent No.1.

CORAM : A.S.GADKARI, J.

DATE : 5th MARCH 2018.

P.C.:

1] This is an application under Section 378 (3) of Cr. P.C. for leave to file appeal against the Judgment and Order dated 4th November 2015 passed by 2nd Additional Sessions Judge, Thane and Special Judge, (POC) Act, Thane in Special Case No.2 of 2007, thereby acquitting the respondent for the offence punishable under Sections 7, 13 (1)(d) and 13 (2) of Prevention of Corruption Act, 1988.

2] Heard the learned APP for the Applicant/State and the learned Counsel for the Respondent. Perused the papers.

The record indicates that, it is the prosecution case that the respondent while working as a Talathi of village Usroli, Taluka Bhiwandi,

District-Thane, demanded a sum of Rs.5,500/- for deleting the entry of the Society charges from 7/12 extract of revenue records of the complaint. That a trap was laid on 8.12.2005 and the respondent was apprehended by the Investigating Agency after accepting a bribe of Rs.2,500/-. The Trial Court has acquitted the respondent on the ground that, on the date of alleged trap, the demand as alleged by the prosecution was not in existence and the basic ingredients for attracting Section 13 (1)(d) of the Prevention of Corruption Act i.e. “demand of monetary consideration otherwise than legal” was not proved by the prosecution.

3] Perusal of the record would indicate that, the entry of Society Charges from 7/12 extract of revenue record of the complainant was already deleted by the Revenue Department on 11.6.1996 and the date of alleged demand and trap laid by the Prosecuting Agency is 8.12.2005 and therefore the said cause for demand was not in existence. The record clearly indicates that, on 8.12.2005 i.e. on the the date of alleged trap, the demand as propounded by the prosecution was not in subsistence and the alleged entry of “society charges” in the 7/12 extract was not at all in existence. Therefore the respondent is successful in rebutting the presumption drawn against him. The record further indicates that, the

prosecution has failed to prove the demand made by the respondent for alleged bribe of Rs.2500/-.

4] After perusal of 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 and no case for grant of leave to file appeal is made out.

Application is accordingly rejected.

(A.S.GADKARI, J.)