

Vidya Amin.

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

CRIMINAL REVISION APPLICATION No. 603 OF 2018

Vishnu Prasad Sharma ... Applicant

VS.

1. CBI, ACB, Pune

2. The State of Maharashtra ... Respondents

Mr. Chetan S. Damre, Advocate for the applicant.

Ms. Ameeta Kuttikrishnan, Advocate for respondent no. 1.

Mr. A.R. Patil, APP for respondent no. 2/State.

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: 20th February, 2019.

P.C. :

In this Criminal Revision Application, the order dated 29th September, 2018 passed by the learned Judge of the Special Court in Special Case No. 80 of 2015 rejecting the Application of discharge is challenged.

2. The applicant/accused is prosecuted for the offence under sections 7, 9, 12, 13(2) r/w. 13(1)(a) & (d) and 14 of Prevention of Corruption Act and also under section 120B r/w. 201, 511 r/w. 420 of Indian Penal Code. The applicant/accused was employed with co-accused Balu Kanojiya, who was running canteen at National Defence Academy, Pune. The young persons, who were aspiring

to be in armed force, were given promises for the employment by payment of amount and many such young male did pay the said amount, which is bribe amount, to Balu Kanojiya who had further promised that the said amount would be given to one Colonel/accused no. 1.

3. The learned counsel appearing for the applicant/accused has submitted that the applicant/accused has no idea of such conspiracy and he is not beneficiary of this conspiracy. He has submitted that the applicant was in the employment of co-accused Balu Kanojiya and has collected money as per his directions. The applicant handed over said money to Balu, who subsequently gave the said amount to accused no. 1/Colonel Kulbir Singh. He submitted that the applicant/accused is innocent and has not committed any offence much less the offence under Prevention of Corruption Act or offence of cheating under Indian Penal Code. The learned counsel has pointed out the order of Special Judge discharging accused no. 10-Bhagwan Dattatraya More, who has played same role and he is a public servant. The learned counsel submitted that applicant/accused is not a public servant. He relied on the judgment of Hon'ble Supreme Court in the case of

Virendranath vs. State of Maharashtra, reported in AIR 1996 SC 490.

4. The learned APP relied on the statements recorded under section 164(5) of Cr. P.C. of various witnesses. She relied on the statement of Dattatreya Laxman Wagh, Yogesh Vilas Dedge, Mahesh Vilas Dedge, Vishal Tejpal Lokhande, Suresh Bhikoba Gujar, Ramesh Bhimrao Dhote and Dilip Namdeo Kumbhar. She pointed out that all these witnesses have stated about the role played by the applicant/accused. In some of the cases, the applicant was present alongwith Balu Kanojiya and in some cases, he has accepted money on behalf of Balu Kanojiya. She also pointed out that in the case of Vishant Lokhande, the applicant/accused advised him to submit blank answer papers and has accepted money. She also submitted that the order discharging co-accused Bhagwan More is challenged before this Court.

5. Perused the record, statements of the witnesses as pointed out by the learned APP. In view of the allegations made against the applicant/accused and the nature of offence, I am of the view

that there is evidence to frame charges under relevant sections of Prevention of Corruption Act and also under Indian Penal Code.

6. In the case of **Virendranath** (*supra*), the appellant Virendranath was convicted for the offences punishable under section 7, 12, 13(1)(d) r/w. 13(1)(2) of Prevention of Corruption Act. However, in the said case, there was only one incident where the appellant has accepted money on behalf of the co-accused. In the present case, there is a chain of incidences of acceptance of money and it is not Appeal but it is Application for discharge. Hence, the prosecution is required to unfold the entire evidence before the trial Court. Hence, Criminal Revision Application is rejected.

(MRIDULA BHATKAR, J.)